Already Australia, New Zealand, Bangladesh, Thailand, Pakistan, Malaysia, and the Philippines have all said they will contribute forces. Today, we learned that China has basically said they are open minded on this issue. Well, now is the time for the United States to take some leadership.

I call upon President Clinton to be forceful in calling upon the United Nations to send an international force immediately to East Timor, and we should contribute to this force. We should not shirk our responsibilities in this matter either.

To do nothing now would be to fly in the face of everything for which this great country stands for. We were one of those actively encouraging the Indonesians, the Portuguese, the United Nations, and the East Timorese to reach this agreement to allow this vote. We supplied funding and observers for the vote. The Carter Center was actively involved in East Timor, ensuring it would be a free and fair vote and counting the ballots. If we now walk away, if we now say, well, we can't do anything unless Indonesia invites us in to a place that they annexed with brutal force 23 years ago then we are less of an America than we have been in the past.

I am deeply saddened by the death of these two priests. I didn't know them well, but I spent some time with them, spoke with them, asked them about what they were doing, asked them about the conditions in their parishes. They were gentle souls just doing their job as shepherds of their flocks, yet taken out and brutally murdered.

Lastly, I understand that by tomorrow, the United Nations will remove the 212 people they have there now. I am again asking the President to call upon Kofi Annan, Secretary General of the United Nations, to not pull out our U.N. people who are there. If we do, we will have no eyes and no ears; we will have no presence at all in East Timor, and the killing rampages we have witnessed over the last several days will only mushroom.

I hope the U.N. will keep its people there. I hope the United States will put every ounce of our leadership behind the United Nations to send an international force there within the next 48 hours. If we do, we can save thousands of lives. And we can restore peace and stability. We can tell the rest of the world that when you have a free and fair and open election under U.N. auspices, we are not going to let thugs and murderers take it away from you. That is the kind of America I think we ought to be.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Washington.

Mr. GORTON. Mr. President, what is the business before the Senate?

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative assistant read as follows:

A bill (H.R. 2466) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

Pending:

Gorton amendment No. 1359, of a technical nature.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, debate on the Interior appropriations bill took place on two separate occasions before the August recess. Two significant amendments have already been voted upon. We now have a unanimous consent agreement for listing all of the amendments that are in order, and they are 66 in number.

A substantial share, perhaps 20 or more of those amendments, will either be accepted or will be a part of one omnibus managers' amendment at the end of this debate. I suspect several others will not actually be brought up for discussion in the Senate, but it seems apparent to this Senator, as manager of the bill, that as many as a dozen may require some amount of debate and very likely a vote.

Up to four of those amendments are amendments that were included as a part of the bill as it was reported by the Subcommittee on Interior appropriations and by the full Appropriations Committee, which fell under the revised rule XVI. One of those is an amendment originally drafted by the Senator from Missouri. He will bring it up at this point.

I have asked the Democratic manager, Senator BYRD, to get me a list of amendments that Members of his party wish to bring up. He is in the process of doing that at the moment. But this is an announcement that we are now open and ready for business. It may be that we will, from time to time, set amendments aside so we can hear debate on others. The majority leader may decide to stack votes on some of these amendments. But this is a very short week. We are starting this at 4 o'clock on Wednesday afternoon. We have all day and into the evening tomorrow for these debates. The majority leader has announced, due to the Jewish holiday, that there will be no votes on Friday. I hope we will have made substantial progress on the bill by the end of tomorrow's session of the Senate. That is possible, of course, only if Members on both sides—both Republicans and Democrats—are willing to bring their amendments to the floor.

The one other amendment I have discussed seriously at this point is one by the Senator from Wyoming, Mr. ENZI, and the Senator from Florida, Mr. GRAHAM, on gambling. That amendment is ready to be accepted. Now I see two Members on the floor. If the Senator from Florida—who was told he could go first—would like to bring his amendment up now and submit the rest of the various statements on it, I understand the amendment will be accepted in relatively short order. Is my understanding correct?

Mr. GRAHAM. That is my understanding, and we are prepared to proceed with our amendment.

Mr. GORTON. Then I yield the floor and suggest the Senator from Florida seek to be recognized.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Florida is recognized.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Kasey Gillette of our staff have floor privileges for the duration of the consideration of the Interior appropriations bill.

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

Mr. GRAHAM. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

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

AMENDMENT NO. 1577

(Purpose: To prohibit the Secretary of the Interior from implementing class III gaming procedures without State approval)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. ENZI, Mr. BRYAN, Mr. REID, Mr. VOINOVICH, Mr. GRAMS, Mr. LUGAR, Mr. SESSIONS, and Mr. BAYH, proposes an amendment numbered 1577.

At the appropriate place, insert the following:

SEC. . PROHIBITION ON CLASS III GAMING PROCEDURES.

No funds made available under this Act may be expended to implement the final rule published on April 12, 1999, at 64 Fed. Reg. 17535.

Mr. GRAHAM. Mr. President, this amendment, which has been cosponsored by Senators ENZI, BRYAN, REID, VOINOVICH, GRAMS of Minnesota, LUGAR, SESSIONS, and BAYH, has been before the Senate on several previous occasions. It essentially goes to the issue of what will be the process to determine whether on Indian properties there shall be allowed class III gambling. Class III gambling is the type of gambling that occurs in Las Vegas and Atlantic City. It is what we would characterize as casino gambling. Currently, for that gambling to occur, there has to be a compact entered into between the representatives of the Indian tribe and the Governor of the State in which the proposed casino would be located. This is all part of the Indian Gaming Act passed by the Congress in the past.

The Secretary of the Interior, earlier this year, on April 12, issued a regulation that essentially said if he determined the States were not negotiating

on these compacts in good faith, then he could remove that power from the States, and the Secretary of the Interior would decide whether there should be class III gambling under the aegis of Indian tribes.

I personally think that is a very bad idea. It disrupts the basic principle of federalism, the responsibility which this Congress has placed with the States and the tribes to reach an agreement.

In my own State of Florida, we have a prohibition in our constitution against casino gambling. Three times since 1978 there have been attempts to amend the constitution and change that provision, and each time they have been overwhelmingly defeated. This would have the effect of overturning three constitutional expressions of opinion by the people of Florida, and similar expressions of opinion by citizens of other States, to have the Secretary of the Department of the Interior insert his or her will as to casino gambling within that State.

At this time, unless there is further debate, I will yield my time. We will not necessarily ask for a rollcall vote on this matter if it can, as in the past, be resolved by a voice vote.

I thank the Chair.

Mr. ENZI. Mr. President, I rise in support of the amendment introduced by the Senator from Florida, Mr. GRAHAM. This amendment has one very simple purpose: To ensure that the rights of Congress and all fifty states are not trampled on by an unelected cabinet official.

This amendment is very straightforward: it prohibits Secretary Babbitt from expending any funds from this act to implement the final regulations he published on April 12 of this year. The regulations at issue would allow Secretary Babbitt to circumvent the rights of individual states by approving casino-style gambling on Indian Tribal lands. This amendment would prohibit this power grab.

Mr. President, this is the fifth time in two years that I have been involved in amendments of this nature. I myself have offered four previous amendments to stop this power grab by the Secretary of the Interior, and four times this Senate has approved these amendments by voice votes. I think this body has spoken with a clear voice that it does not believe an unelected cabinet official should bypass Congress and all fifty states in a decision as great as whether or not casino gambling should allowed within the state borders.

Mr. President, recently I was invited to testify before the Indian Affairs committee on a bill Senator CAMPBELL has introduced to amend the statute that governs gambling on Indian Tribal lands, the Indian Gaming Regulatory Act. While I do not agree with all the changes Senator CAMPBELL has proposed to IGRA, I applaud the Chairman for taking the initiative to attempt to make changes the proper way—by proposing a bill, holding hearings, receiving public input from all the stakeholders, and moving the legislation through both houses of Congress. I have a few ideas on how I believe the bill could be improved, and I welcome the invitation of Senator CAMPBELL to offer some suggestions to his bill.

In contrast to this legislative process—the proper way to make changes to substantive law—Secretary Babbitt wants to make changes by administrative fiat. His regulations are a slap in the face to the governments of all fifty states, to Congress, and to all the Indian Tribes that have negotiated Tribal-State compacts with the States in which they are located. The Secretary's rules effectively punish those tribes which have played by the rules. The Secretary's action will open the floodgates to an approval process based more on political influence than on proper negotiations between the states and the tribes. Who will be the winners under Secretary Babbitt's new regime? Will it be the Tribes that donate enough money to the right political party? In contrast to the Secretary's rules, the Graham-Enzi amendment would ensure that an unelected Secretary of the Interior won't singlehandedly change current law. This amendment will ensure that any change to IGRA is done the right way—legislatively.

I have already had occasion on this floor to remark on the painful irony of the timing of Secretary Babbitt's power grab. In March of last year, Attorney General Janet Reno requested an independent counsel to investigate Secretary Babbitt's involvement in denying a tribal-state gambling license to an Indian Tribe in Wisconsin. Although we will have to wait for Independent Counsel Carol Elder Bruce to complete her investigation before any final conclusions can be drawn, it is evident that serious questions have been raised about Secretary Babbitt's judgment and objectivity in approving Indian gambling compacts. We should not turn over sole discretion of casino gambling on Indian Tribal lands to an individual who has shown such carelessness in administering his trust responsibilities to all the Indian Tribes within his jurisdiction.

The very fact that Attorney General Reno believed there was specific and credible evidence to warrant an investigation should be sufficient to make this Congress hesitant to allow Secretary Babbitt to grant himself new trust powers that are designed to bypass the states in the area of Tribal-State gambling compacts. Moreover, this investigation should have taught us an important lesson: we in Congress should not allow Secretary Babbitt, or any other Secretary of the Interior, to usurp the rightful role of Congress and the states in addressing the difficult question of casino gambling on Indian Tribal lands.

Mr. President, the Secretary has not given any indication in the 16 months since the independent counsel was appointed that he should be trusted with new, self-appointed trust responsibilities over Indian Tribes. On February 22nd of this year, United States District Judge Royce Lamberth issued a contempt citation against Secretary Bruce Babbitt and Assistant Secretary of the Interior for Indian Affairs, Kevin Gover, for disobeying the Court's orders in a trial in which the Interior Department and the Bureau of Indian Affairs were sued for mismanagement of American Indian trust funds.

In his contempt citation, Judge Lamberth stated, and I quote,

> The court is deeply disappointed that any litigant would fail to obey orders for production of documents, and then conceal and cover up that disobedience with outright false statements that the court then relied upon. But when that litigant is the federal government, the misconduct is even more troubling. I have never seen more egregious misconduct by the federal government.

This conduct has raised such concern that both the Chairman of the Senate Indian Affairs Committee and the Chairman of Senate the Energy and Natural Resources Committee have held hearings and proposed legislation to call Secretary Babbitt to task for his mismanagement of these funds and his disregard for the rulings of a federal court. The Secretary's continued violation of his trust obligations to Indian Tribes should serve as a wake-up call to all of us in the Senate. This is not the time to allow the Secretary to delegate to himself new, unauthorized, powers.

I want to point out that this amendment does not affect any existing Tribal-State compacts. The amendment does not, in any way, prevent states and Tribes from entering into compacts where both parties are willing to agree on class III gambling on Tribal lands within a State's borders. This amendment does ensure that all stakeholders must be involved in the process—Congress, the Tribes, the States, and the Administration.

Mr. President, a few short years ago, the big casinos thought Wyoming would be a good place to gamble. The casinos gambled on it. They spent a lot of money. The even got an initiative on the ballot. They spent a lot more money trying to get the initiative passed. I became the spokesman for the opposition. When we first got our meager organization together, the polls showed over 60 percent of the people were in favor of gambling. When the election was held casino gambling lost by over 62 percent—and it lost in every single county of our state. The 40 point swing in public opinion happened as people came to understand the issue and implications of casino gambling in Wyoming. That's a pretty solid message. We don't want casino gambling in Wyoming. The people who vote in my state have debated it and made their choice. Any federal bureaucracy that tries to force casino gambling on us will only inject animosity.

Why did we have that decisive of a vote? We used a couple of our neighboring states to review the effects of

their limited casino gambling. We found that a few people make an awful lot of money at the expense of everyone else. When casino gambling comes into a state, communities are changed forever. And everyone agrees there are costs to the state. There are material costs, with a need for new law enforcement and public services. Worse yet, there are social costs. And, not only is gambling addictive to some folks, but once it is instituted, the revenues can be addictive too. But I'm not here to debate the pros and cons of gambling. I am just trying to maintain the status quo so we can develop a legislative solution, rather than have a bureaucratic mandate.

Mr. President, the rationale behind this amendment is simple. Society as a whole bears the burden of the effects of gambling. A state's law enforcement, social services, communities, and families are seriously impacted by the expansion of casino gambling on Indian Tribal lands. Therefore, a state's popularly elected representatives should have a say in the decision about whether or not to allow casino gambling on Indian lands. This decision should not be made unilaterally by an unelected cabinet official. Passing the Graham-Enzi amendment will keep all the interested parties at the bargaining table. By keeping all the parties at the table, the Indian Affairs Committee will have the time it needs to hear all the sides and work on legislation to fix any problems that exist in the current system. I urge my colleagues to stand up for the constitutional role of Congress—and for the rights of all fifty states—by supporting this amendment.

I thank the chair and yield the floor.

Mr. GORTON. Mr. President, I understand that the Senator from Hawaii, Mr. INOUYE, may wish the opportunity to speak, and perhaps more likely will wish the opportunity to put a statement in the RECORD. I don't believe that affects the proposition that the amendment will be accepted by voice vote. But I ask that we not take that voice vote at this time, until we are apprised of the desires of the Senator from Hawaii.

Under the circumstances, the Senator from Missouri being here, I ask unanimous consent that he be recognized and that we set this amendment aside to deal with another.

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

The Senator from Missouri is recognized.

AMENDMENT NO. 1621

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. LOTT, proposes an amendment numbered 1621.

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

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

The amendment is as follows:

On page 62, line 10, add the following before the period ''*:Provided*, That within the funds available, $250,000 shall be used to assess the potential hydrologic and biological impact of lead and zinc mining in the Mark Twain National Forest of Southern Missouri: *Provided further*, That none of the funds in this Act may be used by the Secretary of the Interior to issue a prospecting permit for hardrock mineral exploration on Mark Twain National land in the Current River/Jack's Fork River—Eleven Point Watershed (not including Mark Twain National Forest land in Townships 31N and 32N, Range 2 and Range 3 West, on which mining activities are taking place as of the date of enactment of this Act): *Provided further*, That none of the funds in this Act may be used by the Secretary of the Interior to segregate or withdraw land in the Mark Twain National Forest Missouri under section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714)''

Mr. BOND. Mr. President, this amendment, as the manager has already stated, deals with a matter that was approved in the committee and was taken out by a procedural move. The amendment requires a study of mining in the Mark Twain National Forest in south-central and southeast Missouri. It requires that it be conducted to address the scientific gaps identified by scientists in the Departments of the Interior, Agriculture, and others.

While the relevant information is collected, the amendment delays any prospecting or withdrawal decisions for the fiscal year.

This amendment is a commonsense amendment. It is a modern amendment. It enables the full-blown process to go forward before any decisions are made.

This amendment does not permit mining. It does not permit exploration. It does not amend, weaken, or touch environmental standards.

It prohibits exploration and withdrawal. It requires a scientific study of the scientific gaps identified by the agencies. It maintains the NEPA requirement for full-blown environmental impact statements which any withdrawal by the Secretary would preclude.

This amendment preserves, as I said, the requirement of the full-blown NEPA process. And a full-blown impact statement will ultimately dictate whether any mining should or should not take place if an application is made, if there are deposits of lead discovered.

By the time any mining could take place, Senator THURMOND might be the only Senator remaining in this Chamber.

The amendment does not give miners their way who want clearance for prospecting now.

It does not give the zero-growth opponents their way. Contrary to precedent and current law, they want no economic activity on these public lands which are multiple-use lands in the State of Missouri.

Anyone who understands this issue understands that bulldozers are not ready to roll, nor should they be. They don't even know yet what lead might be available. There are too many unanswered questions to make a final decision. Regrettably, some on the extreme want to preclude an opportunity to answer those questions.

The fundamental question that this amendment addresses is whether someday, if we were to find lead in those areas, additional lead could be mined safely in the State of Missouri. That is a critical question and that is one that should be answered by the scientists.

We are not here to legislate a decision and it should not be hijacked by administrative decree.

Some suggest that we know enough already to make what would be a permanent decision for the 1,800 miners who are under the gun for the 10 counties in south Missouri that depend upon this mining. They say we know enough already to prevent any further mining in an area which has 90 percent of the domestic lead deposits. So we would export lead production overseas.

This past month I met with the bipartisan county commissioners, Democrats and Republicans, who are elected by and responsible to the people in the counties they serve. They make up the Scenic Rivers Watershed Partnership. They are closest to the issue. They have the most at stake. They are the ones who represent the recreational interests. They are the ones who represent the timber interests. They represent the forest interests. They represent the interests of schools and roads which depend upon the royalties that come from mining. And they support this amendment. They said we must have a full-blown study.

There is a technical team that has been set up.

A multiagency technical team was established in 1988. It has the USDA Forest Service, the National Park Service, EPA, U.S. Geological Survey Water Resources Division and the Geologic Division, the Mineral Resources Division, the Mapping Division, the Missouri Department of Natural Resources, and the Department of Conservation. It has the private companies involved; it has the University of Missouri, Rolla; and it has the U.S. Fish and Wildlife Service.

What do these scientists and engineers who have begun the study say?

First, they say:

The technical team believes that there is insufficient scientific information available to determine the potential environmental impact of lead mining in the Mark Twain National Forest area. This is a consensus opinion that the technical team has held from the beginning through the present. Due to the lack of scientific information available to assess the potential impacts of lead mining, the technical team proposed that a comprehensive study be conducted.

That is contained in a letter to me dated July 30, 1999, from Charles G. Groat, Director of the U.S. Geological Survey, the Office of the Director, the

U.S. Department of the Interior in Reston, VA.

I ask unanimous consent that a copy of this letter be printed in the RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
U.S. GEOLOGICAL SURVEY,
Reston, Virginia, July 30, 1999.

HON. CHRISTOPHER S. BOND,
U.S. Senate, Washington, DC.

DEAR SENATOR BOND: This is in response to your letter of July 20, 1999, to Mr. Jim Barks, related to mining in the Mark Twain National Forest (MTNF) area. In your letter, you ask that we provide a brief and clear assessment as to the quality of information that was compiled by the interagency technical team charged with building a ''relevant database to assess mining impacts and base future decisions.'' You ask that we, ''specifically address the question as to the adequacy and relevance of information currently available to provide a solid scientific foundation for any decision to justify either withdrawal or mining in the region.''

In 1988, an interagency technical team was assembled to guide the identification, collection, and dissemination of scientific information needed to assess the potential environmental impact of lead mining in the MTNF area. Since 1989, the team has been chaired by Bob Willis of the Forest Service. The U.S. Geological Survey (USGS) has actively participated on the team from the beginning, with Mr. James H. Barks, USGS Missouri State Representative, serving as our representative.

The technical team believes that there is insufficient scientific information available to determine the potential environmental impact of lead mining in the MTNF area. This is a consensus opinion that the technical team has held from the beginning through the present. Due to the lack of scientific information available to assess the potential impacts of lead mining, the technical team proposed that a comprehensive study be conducted.

In January 1998 at the request of the technical team, the USGS prepared a proposal for a multi-component scientific study to address the primary questions about the potential environmental impacts of lead mining in the MTNF area. Mr. Barks provided a copy of the proposed study to Brian Klippenstein of your staff at his request on July 9, 1999. Neither a requirement for full environmental review to support a Secretarial decision nor a source of funding has been established. For these reasons the proposed study has not been initiated.

Please let us know if we can provide additional information or assistance.

Sincerely,

CHARLES G. GROAT,
Director.

Mr. BOND. Mr. President, there is further backup and supportive information that I can provide. But, in summary, my amendment provides the money for the research that the technical team says it needs, and it preserves the current rigorous environmental process which will take years to complete. If lead is discovered, if it is economically viable, and if the company decides to develop a mining plan and apply for mineral production, then the whole process will have to start.

To vote for this amendment is to vote to let the scientists get what they say is necessary to make an informed decision, and it is a consensus of all of those agencies I outlined that they don't have the information. I think it is also a strong consensus of all the agencies that we must protect the environmental resources of the region.

As one who has floated and fished on the streams in the Mark Twain National Forest, I can tell you that it is a real gem. I flew over much of the area and I visited on foot much of the area in the last month. I can tell you that it is a beautiful wilderness. But it is a multiple-use area. It is used for recreation; it is used for timber; it is used for mining. We flew over some 160 exploratory drilling sites. But you don't see them because they grow back. As a matter of fact, I had my picture taken in one of the exploratory sites.

There is an exploratory site 2 years after the exploration stopped. It is growing back. In another few years you won't even be able to tell it is there.

That is why the scientists said that exploratory drilling has no impact. So it is not even an issue. It has no environmental impact. That is not a problem.

There are those who do not live in the area who say that no economic use can be made. But I believe that for the good of the country, for the good of the area, to satisfy our needs, to provide the work for 1,800 miners in the area, to provide the support for the schools, for the communities, for the roads and infrastructure in the area, we must follow the long established, rigorous evaluation process designed to allow environmentally acceptable activities and prohibit those that would be adverse to the environment.

If you listen to the scientists, as we have, you know that it takes more information than is currently available to make that determination. These questions deserve to be answered before we mine, or before we slam the door in the face of the regions' residents and force our country to become exclusively reliant on foreign sources of this vital mineral.

I urge my colleagues to support this measure. It is a commonsense amendment.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 1577

Mr. CAMPBELL. Mr. President, I was off the floor. What is the pending business? Are we going back to the Graham amendment now?

The PRESIDING OFFICER. We are now on Senator BOND's amendment. We left the Graham amendment.

Mr. CAMPBELL. I ask unanimous consent to return to the Graham amendment so that I may speak in opposition to it for a minute.

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

The Senator from Colorado is recognized.

Mr. CAMPBELL. Thank you, Mr. President.

I don't think anyone has more disagreement with Secretary Babbitt than I do as chairman of the Indian Affairs Committee. Certainly Indian trust funds have been an issue on which we have been at odds for literally months with the Secretary. In addition to that, as a member of the Energy Committee, I have had my disagreements with him on grazing, water, and many other things, too. But there are at least four reasons to oppose this amendment.

I hope my friend, the Senator from Florida, will consider withdrawing it.

First, after the Supreme Court decided in Seminole v. Florida that Indian tribes cannot sue States for unwillingness to negotiate Indian gaming agreements, it created a terrific problem, as many Members know. We have spent a considerable amount of time in our committee, with me as the chairman of that Committee on Indian Affairs, looking for ways that States and tribes can come to some consensus.

We have a pending bill, S. 985. We have worked on it very hard. We want the legislative process to proceed. The Indian Gaming Regulatory Act requires tribes to have compacts before they can operate class III gaming. Right now, unfortunately, the States hold all the cards since the court decided the States do not have to negotiate in good faith.

The Secretary of the Interior is now in Federal court over his ability to issue the kind of procedures that this amendment seeks to stop. As the Senator from Florida probably knows, these procedures can only be put into effect if they are published in the Federal Register. The States of Alabama and Florida have sued the Secretary of the Interior if this case moves ahead in the courts. It is in the interest of all parties, States and tribes, for the United States to allow the courts to decide once and for all if the Secretary has this authority.

I point out, the House has already rejected a similar amendment. I have a letter dated August 2 from the Secretary of the Interior. I ask unanimous consent that the letter be printed in the RECORD.

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

THE SECRETARY OF THE INTERIOR,
Washington, DC, August 2, 1999.

HON. BEN NIGHTHORSE CAMPBELL,
U.S. Senate, Washington, DC.

DEAR SENATOR CAMPBELL: As you know, a floor amendment has been submitted for intended action on the FY 2000 Interior appropriations bill which would preclude the Department from expending any funds to implement the Indian gaming regulation published in the Federal Register on April 12, 1999. The question of our authority to promulgate that regulation is in litigation in the Northern District of Florida in a case brought by the States of Florida and Alabama. I urge you to oppose the amendments in recognition of the fact that the matter is now in the courts, and we have agreed to refrain from implementing the regulation in any specific case until the federal district court has an opportunity to rule on the merits of the legal issues. We believe that this matter is best dealt with by the courts and we are eager for a judicial resolution.

The regulation will have narrow application. It applies, by its terms, only (1) when an Indian Tribe and a State have failed to reach voluntary agreement on a tribal-state gaming compact; and (2) when a State successfully asserts its Eleventh Amendment immunity from a tribal lawsuit and thus avoids the mediation process expressly provided in the Indian Gaming Regulatory Act. The regulation will be implemented on a case-by-case basis, controlled by the facts and law applicable to each situation. As noted above, we are already in litigation in federal court in Florida over the lawfulness of the regulation.

In a letter dated May 11, 1999, I explained our concern that we do not think a legal challenge to the regulation is ''ripe'' for adjudication until the Department had actually issued ''procedures'' under it. Since that time, we have sought to dismiss a legal challenge on ripeness grounds. We intend to go forward with processing tribal applications under our regulation and to issue ''procedures'' if they are warranted. It is important to note that any such ''procedures'' become affective only when published in the Federal Register. As noted above, we have agreed to refrain from publishing any procedures until the federal district court has an opportunity to rule on the merits of the legal issues.

The House of Representatives rejected an amendment that would have precluded implementation of the rule and I hope that the full Senate will do the same. As you know, in the past, I have recommended that the President veto legislation containing similar provisions.

Thank you for your assistance on this important matter.

Sincerely,

BRUCE BABBITT.

Mr. CAMPBELL. In that letter, the Secretary indicates the final rule will not be implemented and no tribal agreements will be authorized until the courts decide the real issue of whether he has authority to issue these procedures. That may take several years.

I ask the legislative process proceed and we not short circuit it with this amendment. I ask the Senator from Florida to withdraw that amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I rise today in support of the amendment offered by the distinguished Senators from Florida and Wyoming, Mr. GRAHAM and Mr. ENZI. This is an amendment that prevents the Interior Department from implementing new regulations that seriously threaten the rights of States to regulate gaming activities within their borders.

This amendment reinstates the prohibition on the Secretary of the Interior, which expired on March 31, from approving casino gaming on Indian land in the absence of a tribal-State compact. A similar provision was adopted unanimously by the Senate as part of the fiscal year 1998 Interior appropriations bill as well as the fiscal year 1999 omnibus appropriations bill.

As many of my colleagues are aware, the Indian Gaming Regulatory Act enacted in 1988 divides Indian gaming into three categories. The amendment offered for consideration on the Senate floor today addresses the conduct of class III gaming; that is, casino gaming, slot machines, video poker, and other casino-type games.

Under IGRA, the Congress very clearly intended to authorize Indian tribes to enjoy and to participate in gaming activities within their respective States to the same extent as a matter of public policy that the State confers gaming opportunities generally to the State.

There are two clear extremes. In one case, we have the States of Utah and Hawaii. Those are the only two of the 50 States that I am aware of that permit no form of Indian gaming. It is very clear that because those two States as a matter of public policy confer no gaming opportunities upon its citizenry, Indian tribes in Utah and Hawaii have no ability to conduct gaming activities within the class III description, the so-called casino-type games.

Equally clear at the other end of the spectrum is my home State of Nevada. Nevada has embraced casino gaming since 1931. It is equally clear in Nevada law that the Indian tribes in my own State are entitled to a full range of casino gaming. Indeed, compacts have been introduced to accomplish that purpose.

Under IGRA, the class III gaming activity is lawful on Indian lands only if three conditions are made:

No. 1, there is an authorized ordinance adopted by the governing body of a tribe and approved by the Chairman of the National Gaming Indian Commission;

No. 2, located in a State that permits such gaming for any purpose by any person, organization, or entity—I want to return to that because that is the key here—located in a State that permits such gaming for any purpose by any person, organization, or entity.

No. 3, are conducted in conformance with a tribal-State compact.

As I know the distinguished occupant of the Chair fully understands, the implementation of IGRA requires that compact be negotiated and entered into between the Governor of the State and the tribe within that State that is seeking to conduct class III activity. When IGRA was enacted in 1988, Congress was careful to create a balance between State and tribal interests. One of the fundamental precepts of IGRA is that States and tribes must negotiate agreements or compacts that delineate the scope of permissible gaming activities available to the tribes. Again, the intent of IGRA is clear and I support its concept. Very simply stated: To the extent that a State authorizes certain gaming activity as a matter of public policy within the boundaries of that State, Indian tribes located within that State should have the same opportunity. There is no fundamental disagreement about that.

However, a situation has arisen in a number of States in which Indian tribes have tried to force Governors to negotiate extended gaming activities that are not authorized or permitted by law within that State; for example, a State that may authorize only a lottery might be pressed by a tribe to permit slot machines—clearly something that IGRA did not contemplate. It is in that area that we have had some very serious disagreements.

The new Interior Department regulations destroy the compromise that is reflected in IGRA. It is in my view a blatant attempt by the Secretary to rewrite the law without congressional approval. The rule that has been promulgated allows the Secretary to prescribe ''procedures'' which the Interior Department characterizes as a legal substitute for a tribal-State compact, in the event a State asserts an 11th amendment sovereign immunity defense to a suit brought by a tribe claiming a State has not negotiated in good faith.

The effect of this rule for all intents and purposes nullifies the State's constitutionally guaranteed sovereign immunity by allowing the Secretary of the Interior to become a substitute Federal court that can hear the dispute brought by the tribe against the State. Ironically, the new rule permits a tribe to sue based on any stalemate brought about by its own unreasonable demands on the State, such as insisting on gaming activities that violate that State's law.

I support this amendment because I believe, as do the Governors and the States Attorney General, that the Secretary does not possess the legal authority he has sought to grant to himself under this rule, and that statutory modifications to IGRA are necessary in order to resolve a State's sovereign immunity claim.

In a letter to the majority leader and the Democratic leader, the Nation's Governors stated they strongly believe that no statute or court decision provides the Secretary of the U.S. Department of Interior with the authority to intervene in disputes over compacts between Indian tribes and States about casino gambling on Indian lands. In light of this strongly held view, the States of Florida and Alabama have already filed suit against the Secretary to declare the new rule ultra vires.

The most troubling aspect of the new rule is that the Secretary of the Interior grants himself the sole authority to provide for casino gaming on Indian lands in the absence of the tribal-State compact.

As a former Governor, I appreciate the States' concern with the inherent conflict of interest of the Secretary in resolving a major public policy issue between a State and Indian tribe while also maintaining his overall trust responsibility to the tribe.

I ask my colleagues to consider the Secretary of the Interior would in effect be the arbiter where a dispute arose between the tribe and the Governor in which the tribe was asserting a claim to have more gaming activity than is lawfully permitted in the State. The Secretary of the Interior, who

holds a trust responsibility to the tribe, would in effect be making the determination in that State as to what kind of gaming activity would be permitted. I cannot imagine something that is a more flagrant violation of a State's sovereignty and its ability, as a matter of public policy, to circumscribe the type of gaming activity permitted. The States have asserted a wide variety of these. Some States, as I indicated earlier, provide for no gaming activity at all. Others provide for a full range of casino gaming, as does my own State. Other States permit lotteries. Still others authorize certain types of card games. Others permit a variation of horse or dogtrack racing, both on- and off-track.

So a State faces the real possibility, under this rule, if it is not invalidated—and I believe legally it has no force and effect, but we want to make sure this amendment prohibits the attempt of the Secretary to implement it—in effect, the Secretary of the Interior would have the ability to set public policy among the respective States as to what type of gaming activities could occur on Indian reservations within those States. We are talking now about class III casino gaming. Even though a State Governor and the legislature and the people of that State may have determined, as a matter of public policy, that they want a very limited form of gaming—a lottery or racetrack betting at the track as opposed to off-track—the Secretary would have the ability, when a tribe asserted more than the State's law permitted, to, in effect, resolve that. I cannot think of anything that is more violative of a fundamental States rights issue in terms of its sovereignty and its ability as a matter of public policy to make that determination.

I agree with many of my colleagues that statutory changes to IGRA are in order, in light of recent court decisions. I am hopeful that Congress will see fit to reassert its lawmaking authority in this area by reexamining IGRA, rather than sitting on the sidelines while the Secretary of the Interior performs that task.

But, in the meantime, it is imperative that the Congress prohibit the Secretary from approving class III gaming procedures without State approval. For that reason, I urge my colleagues to support the carefully crafted amendment by my colleague from Florida, Senator GRAHAM, and Senator ENZI from Wyoming—an amendment to preserve the role for States in the conduct of gaming on Indian lands.

It is fair, it is balanced, and it is reasonable. It is consistent with the overall intent of IGRA, which was adopted in 1988 by the Congress, to permit class III gaming activities when the three conditions which I have enumerated are met, ultimately with a compact negotiated by the Governor and the tribe within that State. In the absence of such an agreement, the Secretary of the Interior must not be allowed to determine that State's public policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, it is still the opinion of the managers that this amendment is likely to be accepted by voice vote. We still haven't directly heard from the Senator from Hawaii, however, who may be nearby. I hope when he finishes we can cast such a vote.

We have heard, on the other hand, the senior Senator from Illinois wishes to speak against the Lott amendment proposed for him by Senator BOND and will ask for a vote on that. So we will await his presence and his speech on that subject before there is any attempt to bring that amendment to a vote. But for all other Members with the other 64 amendments, now that we have started to deal with two of them, we would certainly appreciate their coming to the floor and showing a willingness to debate. The Democratic manager, Senator BYRD, and I are certainly going to be happy to grant unanimous consent to move off of one amendment and onto another, I am sure, to keep the debate going with the hope of making progress on the bill.

With that, however, I yield the floor.

Mr. BYRD. Mr. President, I join with my distinguished colleague, the manager of the bill, in urging Senators to come to the floor and debate these amendments. It is my understanding, as it is his, that the distinguished Senator from Illinois, Mr. DURBIN, wishes to speak against the amendment by the distinguished Senator from Missouri, Mr. BOND, and he will certainly have that opportunity.

I trust the offices of Senators—I am sure they are watching and listening—will pass on to the respective Senators this urgent message that we are trying to state here, that we are here, we are here to discuss amendments, debate them, agree to them, vote them down, vote them up, amend them further, or whatever. But Senators need to come to the floor and make their wishes known so that this valuable time will not be lost. So I urge our Senators to act accordingly.

Now I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INOUYE. 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. INOUYE. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, with the greatest respect for my friend from Florida, I rise in opposition to the amendments he proposes to the Interior appropriations bill.

As similar amendments have done in prior years, this amendment seeks to prevent Indian tribal governments from engaging in activities that have been authorized by the U.S. Congress and sanctioned by the Supreme Court of the United States.

My colleagues know well that there has been a serious impasse in the operation of federal law, the Indian Gaming Regulatory Act—IGRA—since 1996.

In that year, the Supreme Court concluded that the means by which tribal governments could have recourse to the Federal courts if a State refused to negotiate for a tribal-State compact violated the states' eleventh amendment immunity to suit.

Thus, while there are presently over 128 tribal-State compacts as many as 24 States, in those States where tribal-State compact negotiations had not been brought to fruition by 1996, the Court's ruling gave those States a trump card in the negotiations.

Those States—and there are only a few—now had a means of avoiding compliance with the Federal law altogether. They could refuse to negotiate any further, or refuse to negotiate at all, with the knowledge that tribal governments had no remedy at law and no recourse to the Federal courts.

We have tried to address this matter through legislation, and indeed, the chairman of the Indian Affairs Committee, Senator BEN NIGHTHORSE CAMPBELL, currently has a bill pending in the Senate which specifically addresses this matter and establishes a process for resolving this impasse.

In the interim, the Secretary of the Interior has stepped into the breach—first by soliciting public comment on his authority to promulgate regulations for an alternative process if tribal-State compact negotiations should fail, and then by following the administrative procedures to assure that everyone with an interest had an opportunity to participate in the rulemaking process.

That was the open and public and well above-board process that was followed, and it seems to me only fair that if a State refuses to negotiate with a tribal government,—that there be some other means by which an indian government can secure its right under Federal law to conduct gaming activities.

Mr. President, if there were a proponent of this amendment that could tell us what equitable alternative they would propose for those tribal governments that will be directly affected by this amendment, I would give that alternative my earnest consideration.

But all that I see going on here is an effort to assure that the windfall enjoyed by those States that had not entered into compacts by 1996, never have to do so.

I suggest that if what we are about here is to render the Indian Gaming Regulatory Act a nullity, then let's be direct and forthright about it.

Let's repeal the Federal law.

Let's have the Supreme Court's ruling in Cabazon be the order of the day and of every day to come.

I, for one, will not be party to this obvious effort on the part of some States to evade the mandates of the Federal law.

There is nothing constructive being advanced today. There is no effort to assure some balance in the positions of the respective sovereigns, tribal and State governments, and as such, I must strongly and respectfully oppose the adoption of this amendment.

I thank the Chair. I yield the floor.

At the request of Mr. GORTON, the following statement was ordered printed in the RECORD:

Mr. SESSIONS. Mr. President, I rise today to join with my distinguished colleagues, Senator ENZI and Senator GRAHAM, in offering this important amendment to the fiscal year 2000 Interior appropriations legislation. This is an amendment that should be supported by anyone who is concerned about the issue of gambling, and who also believes that the Federal Government often goes too far in exerting its will on the individual States. I think that the amendment we offer today, which will prohibit taxpayers money from being expended to implement the final rule published on April 12, 1999 at 64 Federal Register 17535, is an important amendment because if it passes it will prohibit the Secretary of the Interior from unilaterally approving the expansion of casino gambling on Tribal land throughout this country, including States, like Alabama, in which a Class III gambling compact has not previously been negotiated.

Allow me to briefly share some of my thoughts on the importance of this amendment. As Attorney General of Alabama, I cosigned a letter with 25 other Attorneys General that was sent to the Secretary of the Interior in regards to his promulgation of the rule we seek to block today. Every Attorney General who signed that letter shared the opinion that the Secretary of the Interior did not have the legal authority to take action to promulgate regulations which gave him the authority to allow casino gambling in this manner. In fact, I previously warned the Secretary that if he attempted to implement this rule, he would immediately be sued by States throughout this country in direct challenge to these regulations, resulting in a terrible waste of resources on both the State and Federal level. Unfortunately, my prediction has come true, as the States of Florida and Alabama have filed suit to block the implementation of this rule.

This is an important issue for my State, which has a federally recognized tribe and which has not entered into a tribal-State gambling compact. Alabama's citizens have repeatedly rejected attempts to allow casino gambling to occur within our State. However, under the rules that the Secretary of the Interior has promulgated, he has given himself the authority to unilaterally decide whether tribes within the State will be allowed to open casinos, regardless of the opinion of the State itself, despite his obvious conflict of interest, and even in the absence of any bad faith on the part of the States. I fail to see how the Secretary of the Interior can cede himself the authority to make this determination for the people of Alabama. Allow me to quote two points from the legal analysis prepared by the States of Florida and Alabama which highlight these issues:

The States of Florida and Alabama point out in their lawsuit that ''under IGRA, an Indian tribe is entitled to nothing other than the expectation that a State will negotiate in good faith. If an impasse is reached in good faith under the statute, the Tribe has no alternative but to go back to the negotiating table and work out a deal. The rules significantly change this by removing any necessity for a finding that a State has failed to negotiate in good faith. The trigger in the rule would allow secretarial procedures in the case where no compact is reached within 180 days and the State imposes its Eleventh Amendment immunity.''

Additionally the States' challenge points out the problems associated with the Secretary of Interior's conflict of interest. In their argument the States point out that ''the rules at issue here arrogate to the Secretary the power to decide factual and legal disputes between States and Indian Tribes related to those rights. Pursuant to 25 USC Section 2 and Section 9, the Secretary of the Interior stands in a trust relationship to the Indian tribes of this nation. The rules set up the Secretary, who is the Tribes' trustee and therefore has an irreconcilable conflict of interest as the judge of these disputes. Therefore, the rules, on their face, deny the States due process and are invalid.''

Both of these points help to illustrate just how badly flawed the regulation proposed by the Secretary of the Interior is, and help underscore why Congress should be vigilant in ensuring it cannot be utilized.

Why is this issue so important to my State? Because in giving himself the ability to decide whether to allow tribal Class III gambling in a State, the Secretary of Interior has given himself the ability to impose great social and economic burdens on local communities throughout Alabama. Let me share with you a letter that the mayor of Wetumpka, Jo Glenn, whose community is home to property owned by a tribe, wrote me in reference to the undue burdens her town would face if the Secretary were to step in and authorize casino gambling. Mayor Glenn writes:

> Our infrastructure and police and fire departments could not cope with the burdens this type of activity would bring. The demand for greater social services that comes to areas around gambling facilities could not be adequately funded. Please once again convey to Secretary Babbitt our city's strong and adamant opposition to the establishment of an Indian Gambling facility here.

Mayor Glenn's concerns have been seconded by other communities. Let me share with you an editorial that appeared in the Montgomery Advertiser in regards to regulations being discussed today. The Advertiser wrote:

> Direct Federal negotiations with tribes without State involvement would be an unjustifiably heavy handed imposition of authority on Alabama. The decision whether to allow gambling here is too significant a decision economically, politically, socially to be made in the absence of extensive State involvement. A casino in Wetumpka—not to mention the others that would undoubtedly follow in other parts of the State—has implications far too great to allow the critical decisions to be reached in Washington. Alabama has to have a hand in this high stakes game.

Mr. President, the States of Alabama and Florida were correct to challenge this regulatory proposal, and the writers of the above quoted letter and editorial were correct when they voiced their objections to it. We should not allow the Secretary of the Interior to promulgate rules giving himself the authority to impose drastic economic, political and social costs on our local communities, and we should take steps now to ensure that he is unable to do so. I urge my colleagues' support for the Graham-Enzi amendment.

Mr. GRAHAM. Mr. President, on April 12, 1999, Thomas Jefferson must have turned over in his grave. That Monday, the Secretary of the Interior promulgated a regulation which had the potential to unilaterally strip the duly elected Governors of America of their decision-making authority on the issue of casino gambling.

That day, the Secretary published regulations that would circumvent the State-tribal compact negotiation process by allowing tribes to apply directly to the Department of Interior for the approval of Class III gaming. If the Secretary determines that the State and tribe have not been able to reach an agreement, he, alone, can grant the tribes the authority to engage in Class III gaming.

Class III gaming is the sort of gambling you might find in Atlantic City or Las Vegas—blackjack, slot machines, craps, roulette.

It's an old story, Mr. President: Washington knows best. But in an era when we have correctly determined that political decisions are best made at the State and local level, this complete abrogation of States' rights is particularly outrageous. Today, Senator ENZI and I are taking steps to reverse the Interior Department's power grab. Our amendment to the Interior Appropriations bill would preserve the fundamental right of every State to decide whether or not it wants Class III Indian gaming within its borders. It would block these efforts to unilaterally approve tribal casino-style gambling applications by prohibiting the use of Department of Interior funds for the implementation of the Secretary's final rule.

The final rule publication on April 12 is fraught with long-term consequences. If we allow the long-standing tribal-State negotiation process to be bypassed, we will undermine a dialogue which has promoted greater understanding between both parties in the negotiation of gaming compacts.

This amendment does not limit the ability of tribes to obtain Class III casino-style gambling provided that tribes and States enter into valid compacts pursuant to existing law.

But even more importantly, Department of Interior's action calls into question the basic right of States to make decisions that are in the best interest of their residents. In the State of Florida, our Constitution prohibits this sort of gambling, and in 1978, 1986, and 1994, Floridians overwhelmingly rejected casino gambling in three separate statewide referendums. State and local law enforcement officials are equally vehement in their opposition.

Mr. President, our amendment has the support of the National Governors Association, National Association of Attorneys General, National League of Cities, and the National Conference of State Legislatures.

Four times in the past three years, an amendment similar to this one has been offered in the Senate, and all four times it has been accepted. Should it fail this time, the Interior Department will have unfettered power to grant Class III gaming compacts over State objections, even in State where casino gambling is against State law, including in States like Florida, where casino gambling is prohibited by the State constitution.

This amendment neither affects existing tribal-State compacts nor amends the Indian Gaming Regulatory Act. It does protect States' rights and ensures that elected State leaders—not unelected Federal officials—have the right to negotiate gaming compacts based on public sentiment.

I hope that my colleagues will join Senator ENZI, our cosponsors, and myself in supporting this amendment.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, as far as I know, that concludes debate on the Graham-Enzi amendment. As far as I know, Members are willing to accept a voice vote on the amendment. So unless someone else rises, I suggest the President put the question.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1577.

The amendment (No. 1577) was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 1603

(Purpose: To prohibit the use of funds for the purpose of issuing a notice of rulemaking with respect to the valuation of crude oil for royalty purposes until September 30, 2000)

Mrs. HUTCHISON. Mr. President, I call up amendment No. 1603.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Texas (Mrs. HUTCHISON), for herself, Mr. DOMENICI, Mr. LOTT, Mr. NICKLES, Mr. BREAUX, Mr. MURKOWSKI, Ms. LANDRIEU, and Mr. SHELBY, proposes an amendment numbered 1603.

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

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

The amendment is as follows:

On page 62, between lines 3 and 4, insert the following:

SEC. 1 . VALUATION OF CRUDE OIL FOR ROYALTY PURPOSES.

None of the funds made available by this Act shall be used to issue a notice of final rulemaking with respect to the valuation of crude oil for royalty purposes (including a rulemaking derived from proposed rules published at 62 Fed. Reg. 3742 (January 24, 1997), 62 Fed. Reg. 36030 (July 3, 1997), and 63 Fed. Reg. 6113 (1998)) until September 30, 2000.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Senator SHELBY be added as a cosponsor to this amendment.

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

Mrs. HUTCHISON. Mr. President, I offer this amendment on my behalf, and in addition to Senator SHELBY, Senators DOMENICI, LOTT, NICKLES, BREAUX, MURKOWSKI, and LANDRIEU.

This amendment will continue an existing provision that will prevent the Interior Department's Minerals Management Service, MMS, from implementing an overreaching and unwise new oil royalty valuation system. This moratorium was adopted by the Senate Appropriations Committee and continues the same restrictions that have been passed by the Senate and the House and signed by the President three times previously.

I add that it has been bipartisan, and the initial moratorium and its subsequent extensions have been supported by Senators on both sides of the aisle, and the same is true on the House side. This will be the fourth time that Congress will have to act to stop this action by the Minerals Management Service. I regret that, and I wish there did not have to be a first time. But this moratorium is absolutely necessary in order to stop the MMS from overriding its regulatory authority by imposing a backdoor tax on the production of oil from Federal leases.

We have heard about judges legislating from the bench. This is, I think, legislating from the cubicle. This new rule violates both the language and the intent of Federal law governing the assessment and collection of Federal royalties from oil and gas drawn from Federal lands in the Outer Continental Shelf.

Everyone agrees the existing rules are too complex and burdensome, and Congress and the industry groups had welcomed a revision of the rules. But the proposed rule 3 years ago which MMS announced without prior notice to Congress could impose even more costly regulations on oil producers and effectively enact a royalty rate hike or tax increase which the agency simply does not have the authority to do. While the larger oil companies might be able to absorb these costs, hundreds of small independent producers probably will not. This new rule hits them at a time when they are still reeling from the historically low oil prices we have seen lately.

Anyone who has any kind of oil production in their States knows that hundreds of thousands of oil-related jobs in our country have gone out of existence in the last 6 months. We all know that oil prices went down to $10 a barrel. We have not seen that in this country for 40 years. We know that small independent producers had to go out of business, thus throwing hundreds of thousands of people off the payroll.

In addition, there are two recent developments that justify more than ever before the extension of the moratorium. First, the MMS itself says it needs more time to review its rule; second, a serious ethical and legal question has recently been raised about the rulemaking process.

Earlier this year, the Minerals Management Service did reopen the comment period for their rule for 30 days. During that period of time, they received extensive comments dealing with the many facets of this issue, and they have not yet finished reviewing and considering those comments.

Because they have held workshops and various oil industry representatives and others interested in this issue have been able to meet together, it is going to take time for the agency to digest the input they have. I hope there is a window in which the Minerals Management Service will be able to sit down and come up with something that is fair and will not put more of our oil industry jobs off the books and into foreign countries.

Remember, today we import more than 50 percent of the oil needs of our country. We are certainly not doing anything to help our own oil industry keep oil jobs in America, and it is a security risk to any country that cannot produce 50 percent of its energy needs.

I think everything we can do to keep this industry strong is a security issue for our country, and it is certainly a jobs issue.

Unfortunately, extending the moratorium through the next fiscal year is the only way we are going to be able to get this agency to produce a workable

rule that stays within the bounds of the law. That is what we are trying to do.

In fact, I want our oil industry to pay its fair share of royalties to the people of our country. Our taxpayers deserve that. That is exactly what we are trying to do with the MMS. But the MMS has been very heavy handed, and they act as if businesses going out of existence is preferable to having a fair royalty rate in which the industry would pay its fair share and we would keep jobs in America.

Several of my colleagues and I strongly urged MMS to sit down with Members of Congress and industry representatives to discuss these issues. It did so last year. Some progress was made, and I thought we were coming toward a compromise. Unfortunately, the Department of the Interior brought the progress to an abrupt halt. The only way we will be able to sit down with the agency is if there is a moratorium until there is a satisfactory resolution of this issue by the MMS and the Members of Congress who are interested in keeping oil jobs in America.

In addition, I and other Members of Congress only recently became aware of a situation that, frankly, calls the entire rulemaking process into serious question. This spring it was revealed that a self-proclaimed government watchdog group called Project on Government Oversight, or POGO, gave $350,000 each to two Federal officials: One at the Department of the Interior and the other at the Department of Energy, apparently in connection with their work on the royalty valuation issue.

This matter is presently under criminal investigation at the Department of Justice, and it is the subject of an investigation by the Department of the Interior's inspector general. Until these investigations are complete, the prudent course would be for the Interior Department to take a voluntary action to suspend its plan to finalize the new royalty valuation rule. Unfortunately, the Department has indicated it is not willing to do this. I can't imagine an agency that has admitted or at least acknowledged that one of its employees in this rulemaking process took $350,000 as part of a payment in a lawsuit from this government watchdog organization, and the agency is not even willing to say we should call a moratorium on this whole process until we get to the bottom of this. That is why, when things such as this happen, people don't trust their Government.

I can't imagine the Interior Department not volunteering to take this action and sit down with us and make sure that this rulemaking process has integrity.

The Interior Department's proposed rule defies the law and the intent of Congress. This disregard for the law is what is at the heart of our objection to the proposed new rule, not the $11 million the Congressional Budget Office estimates the proposed rule will generate in new income for the agency.

Federal law requires for purposes of royalty payments the value of oil drawn from Federal land is to be assessed at the wellhead; that is, when the oil is drawn from the ground. The MMS, however, continues to try to assess the value of the oil away from the wellhead, after the oil has been transported, processed, and marketed, each of which must occur before the oil can be sold. In effect, the MMS is trying to get a free ride on these costs rather than allowing companies to deduct them from the price they ultimately receive for the oil. So you are asking people to pay a tax on their cost of doing business. That does not make economic sense. It certainly doesn't pass the fairness question.

There isn't any question that the existing system of computing Federal oil royalties is overly complex. No one disputes that. Under the current system, oil producers are often unclear as to what their royalty payments are supposed to be, and even the MMS is often at a loss as to what they are owed. But rather than propose a simpler method of ascertaining royalty payments, the MMS has proposed an even more complex and protracted litigation over just what the new rule requires.

While the proposed rule could bring in increased Federal revenues, the increased payments could also be eaten up by the need to hire an army of new Federal auditors to ensure compliance with the complex new system. Furthermore, if companies decide not to go forward with their drilling because they can't make any kind of profit, there will be no revenue to the schoolchildren in our country because there will be no oil royalty extracted from those companies. So the new rule is going to be a regulatory thicket that really is not going to help the situation, which is the problem of a too complex regulation today.

Let me also emphasize this amendment has nothing to do with the entirely separate issue of whether or not any particular oil company has paid the royalties it owes under the existing system.

I have heard a lot of rhetoric on this issue. I have heard my colleagues talk about the lawsuits and the settlements and companies that haven't paid their fair share. If any oil company has not paid its fair share under the existing regulation, I want it to be prosecuted. I want it to have to pay. That is not an issue in this regulation. The only issue before us today is what is going to be the oil royalty valuation process and is Congress going to have the right to raise taxes or is an unelected bureaucrat who is not accountable going to have that right.

Federal land and the mineral resources within that land belong to us all. Proper royalties must be paid for the right to extract those resources. Since 1953, those payments have totaled over $58 billion. That is what we have collected in oil royalties. But enforcement of the law and writing the law are two separate things. The MMS seems to have forgotten that it is the responsibility of Congress, not the government bureaucrats, to determine what the royalty is. That is why we must continue this moratorium until Congress says this is the right approach.

The new rule imposes upon Federal lease producers a duty to market their oil without allowing the cost to be deducted. Oil does not sell itself. There are overhead costs associated with listing the oil for sale, locating buyers, facilitating the sale, and then ensuring that the oil is delivered to that buyer. Federal law and existing regulations only require that the lessee place the oil in marketable condition; that is, that the oil is ready to be sold by removing water and other impurities from it. But lessees are allowed, under current law, to deduct the costs associated with transporting and marketing the oil.

The new rule, as contained in the MMS' own explanation, states that the producers must market the oil for the mutual benefit of the lessee and the lessor. This, then, would mean producers would no longer be allowed to deduct these costs in order to arrive at true wellhead value, as called for by Federal law. There is no other way to slice it. This constitutes a backdoor royalty rate hike; in effect, a tax increase on Federal lands producers.

Secondly, the MMS rule would not allow for the proper deduction of transportation costs. Oil producers typically have to bear the cost of transporting the oil to the buyer, either by pipeline or truck. Presently, those costs are determined by using a methodology recognized by the Federal Energy Regulatory Commission, which has regulatory authority over interstate oil pipelines. So the new MMS rule would actually reject the Federal Government's own cost guidelines and impose a new, untested system for determining transportation costs.

So it comes down to a simple decision: Do we want unelected bureaucrats enacting policy with regard to our Federal lands, or do we want Congress to establish these policies? There have been other bills introduced that would deal with this issue. I hope we can come to an agreement. But I don't think we can forget what has happened to the oil industry over the last 2 years. In fact, this is coming at a time when oil and gas production in our country is at an all-time low. In March of this year, we saw oil prices in parts of our country going down to even $7 or $8 a barrel.

While the price of oil has since begun to come back up—and today stands at about $20 a barrel—the impacts of a year and a half price crash are reverberating throughout the United States. Since the price of oil first fell in late 1997, over 200,000 oil and gas wells have been shut down. Most of these, of

course, were the low-yield marginal or ''stripper'' wells that will never again be opened because it is not economically feasible to do it.

In March of this year, crude oil production in the lower 48 States fell to 4.8 million barrels per day, the lowest level in 50 years. The number of oil rigs in service in the United States fell to just over 100 for the last week in July, the lowest number in service since records have ever been kept.

During this time, foreign oil imports rose steadily and now account for 57 percent of consumption, well above the 36 percent import level we saw during the 1974 oil embargo that nearly shut down the American economy.

The oil crisis has also had a devastating impact on American jobs. Since November 1997, we have lost over 67,000 jobs just in the exploration and production sectors of this industry, which represents 20 percent of the total number of jobs in this field. In January 1999 alone, 11,500 oil and gas jobs were lost. If one looks back to 1981, the numbers are even more alarming: Over half a million good-paying American jobs have been lost in the oil and gas industry.

There are those who would say this is going to hurt our schoolchildren, that they are not going to get the revenues from our public lands. This is very important in my home State. There are dozens of school districts that rely heavily on oil production; property taxes fall with the price of oil. Statewide school districts will collect an estimated $154 million less in revenues this year than last. That is $154 million worth of teachers' salaries, books, computers, you name it. That is what we are talking about in Texas when we talk about the impact of oil on education.

So if we are going to hit the oil business again, what is it going to do to the schoolchildren of our country? Is it going to take another $154 million hit in my State? Do you know that they had to let teachers off in midyear in many counties in Texas because they didn't have the money because of oil companies going out of business and having no income whatsoever? So when my colleagues say the schoolchildren are going to lose $60 million, perhaps, in California alone, I point my colleagues' attention to the fact that we have lost $154 million this year in Texas, and we are cutting teachers off in midyear and shutting down schools because our oil industry is on its knees.

During 1998, while the average yield for stocks in the Dow Jones Industrial Average was a positive 18 percent, the yield for oil and gas stocks was a negative 36 percent. So what does that do to the elderly investor, or the person who is investing in mutual funds? What does that do to an industry that is very important for the retirement security of millions of our citizens?

For companies inclined toward exploration and production, earnings and stock values have fared even worse. The yield on independent refiner stocks, down 40 percent. The yield on exploration and production stocks, down 63 percent. The yield on drilling stock, down 64 percent. These stock values reflect huge losses by oil companies over the past year and a half. Corporate earnings of the 17 major U.S. petroleum companies fell 41 percent between the first quarter of 1998 and the first quarter of 1999. Fourth quarter losses for 1998 and the first quarter of 1999 were some of the largest witnessed in industry history. Some companies have lost over $1 billion during each of these quarters.

So we are not just talking about the loss of revenue to our schoolchildren. We are not just talking about the stability of the retirement pension plans of millions of Americans. We are talking about flat bad policy. We are talking about cutting off an industry that is essential to our security, essential to the retirement security of individuals in this country, essential to job security for thousands of workers; and we are talking about blithely saying let the bureaucrats who aren't accountable increase the taxes without congressional responsibility.

Congress didn't say that last year, they didn't say it the year before, and they didn't say it the year before that. They said: No, you will be accountable because we do care about the schoolchildren of this country, we do care about the people living on retirement incomes in this country, and we do care about those who have mutual funds that include oil industry stocks; we want them to be stable, we want them to pay their fair share, and we believe their fair share includes not paying taxes on their expenses. It is economics 101.

So I am asking my colleagues, for the fourth straight time, to come forward and vote to keep this moratorium so Congress can exercise its full responsibility, so that we will not put people out of business because the margins are so low and because they have been hit so hard over the last year and a half.

We are joined by many groups who care about the economic viability of our country: Frontiers of Freedom, the National Taxpayers Union, Americans for Tax Reform, Citizens Against Government Waste, Citizens for a Sound Economy, the Alliance for America, People for the USA, Sixty-Plus, the Blue Ribbon Coalition, the American Land Rights Association, the Competitive Enterprise Institute, the National Center for Public Policy Research, Rio Grande Valley Partnership.

The moratorium that I am proposing to extend will force the Department to take the time to craft a rule that works and accurately reflects the will of Congress—a rule that will be fair to the schoolchildren of our country, a rule that will be fair to the taxpayers of our country, a rule that will make the oil industry pay its fair share, but a rule that will not make the oil industry pay an increased tax on their expenses. That is unheard of in economics in our country, nor good business sense. It is confiscatory taxation, and we will not stand for our retirees having their investments obliterated by taxes that are unfair. The buck stops here. It does not stop on the bureaucrat's desk; it stops here, because we are responsible for keeping the jobs in this country. We are responsible for fair taxation policy. We are responsible for the schoolchildren of our country. And the way to keep these companies paying their fair share, creating the jobs, and creating safe retirement systems for the people of our country is to keep the moratorium on and force the Department of the Interior to do the will of Congress, which is what it is supposed to do. If we don't stand up for our responsibility, who will? Who will stand up for Congress' responsibility if the Senate doesn't?

I urge the adoption of the amendment which has been adopted three times before, and which I hope will be adopted again, so that we will keep the oil jobs in our country, so that we will keep the retirement security of the mutual funds that depend on oil companies being stable, so that we will keep the schoolchildren of our country having the ability to get revenue that is fair, and to make the oil industry pay its fair share. That is what this amendment does.

I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I know there are Senators who are waiting to speak on other measures. I am only going to speak for 2 minutes.

I congratulate Senator HUTCHISON on the argument she offered today. She indicated that the last three times we have done this, I have either been the sponsor and she the cosponsor, or vice versa.

I am here today to again indicate that whoever follows us and talks about the fact that we ought to stick big oil, or we ought to make sure there are no longer any slick deals, as I see some of these comments that are going to be made here on the floor, let me suggest that if you are taxing anything in the United States and you are doing it wrongly or unfairly or without justification under the law, then it doesn't matter whether somebody is going to lose money if in fact Congress says you have to stop doing that.

That is what we have here. We are going to have Senators argue that there are certain oil companies that are not going to have to pay. There have been settlements where they have paid. But the truth of the matter is, the intention of this law is, if you are going to change it materially, Congress is supposed to be involved.

We have tried to get involved. In fact, for 6 months we have mutually attended hearings with the MMS and the oil producers and talked about what was wrong with these regulations and

rules. Everybody on both sides was saying, let's fix them; let's modify them; let's change them. Frankly, I think the oil people who were at those meetings who have talked with us and have gone to hearings in the Energy Committee are more than willing to listen to realistic, reasonable changes.

But essentially what has happened is, the MMS decided to change the rule which historically based royalties on prices at the wellhead. They decided they would go downstream from that wellhead, and they invented a new concept called ''duty to market.'' They decided that they are going to decide what expenses are allowed in moving that gas downstream to where the marketing occurs. They are deciding what the values are at that point. And we could go through a litany of situations where the oil industry believes the decisions are not fair, not market oriented, or not consistent with business practices. Frankly, I think some—because it is oil, or big oil—think it just doesn't matter, stick them.

Frankly, as I indicated before, we want to stand here and say: Why don't you get serious about fixing those regulations? And we will get off your back.

That is what is going to happen. Until they do it realistically and we get some word that they have been fair and reasonable in the way they are setting these royalty costs and prices that yield dollars in taxes to the oil industry, until we find out there are some changes made, we are going to be here on the floor saying this is a new add-on tax to an industry that maybe 15 years ago we could talk about as if what you taxed them didn't matter. But we know that we have a falling production market in the United States. It is more and more difficult to produce these products. It is more and more expensive and cheaper overseas. Some of us don't want to see the American industry taxed any more than is absolutely reasonable and fair.

These regulations are not right. They are not fair; they are not based on marketplace concepts, or we wouldn't be here.

I know some are going to want to debate this for a very long time. Maybe we will even have to ask for the debate to be closed. But we are not going to give up very easily.

We ask Senators who pay close attention. It is not a matter of what we could get out of this industry or what somebody alleges they would have paid in the settlement. It is a question of whether the new rules and regulations are right and consistent with fair market concepts or not. As you figure the royalty, are you inventing costs and prices and disallowing deductions and the like that have no relationship to reality? We think that is what these are.

We would be happy to come back again and debate. I will be glad to be here. But for now I yield the floor. I thank Senator HUTCHISON.

Mrs. HUTCHISON. Mr. President, if I may say so, I appreciate that this is the Hutchison-Domenici amendment. Sometimes it is Domenici-Hutchison because we both have worked so hard on this issue over the last 3 years. I appreciate the leadership of my colleague from New Mexico who feels the loss of oil jobs just as my State of Texas does. It is a team effort.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBB. Thank you, Mr. President.

AMENDMENT NO. 1583

(Purpose: To strike Section 329 from a bill making appropriations for the Department of Interior and related agencies for the fiscal year ending September 30, 2000)

Mr. ROBB. Mr. President, I call up an amendment that has been filed at the desk on behalf of myself and Senators BINGAMAN, BOXER, CLELAND, CHAFEE, and TORRICELLI.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Virginia (Mr. ROBB), for himself, Mr. BINGAMAN, Mrs. BOXER, Mr. CLELAND, Mr. CHAFEE, and Mr. TORRICELLI, proposes an amendment numbered 1583.

Beginning on page 116, strike line 8 and all that follows through line 21.

Mr. ROBB. Mr. President, I did not ask that the reading of the amendment be dispensed with because it was so short and to the point.

The amendment simply strikes section 329 from the Interior appropriations bill we are now considering. Section 329 is a rider that is intended to overturn recent decisions handed down by the Eleventh Circuit Court of Appeals and the Federal District Court in Washington State dealing with national forests.

These courts were asked to examine the activities of the Forest Service and BLM to determine whether, in allowing certain timber sales from public lands, they complied with their own regulations and resource management plans that were developed under the National Forest Management Act. The courts found that they did not comply and disallowed the sales until they did.

The forest plans guide the Federal decision-making, so that one activity in the national forests such as logging does not occur in detriment to other uses. These plans apply only to national forest land—Federal land—not private land. This is land held in trust for all people and all uses, and the Forest Service and BLM are charged with ensuring that decisions involving these public treasures are made wisely.

We in Congress continually insist that Federal regulators operate using good science. But there is no good science without good data.

Section 329, which my amendment would strike, would relieve the Forest Service from the obligation to develop any new data. And we cannot have good decisions without good science and good data.

After decades of managing our forests primarily for the production of logs, we are now managing forests for a variety of uses. But we cannot do that without baseline data on threatened and endangered species.

We are changing the way we manage forests and the way we look at forest uses. Preserving habitat and providing recreation also have become increasingly important.

These changes are not easy. Proponents of this section, that my amendment would strike, fear that the requirements that we make sound decisions based on sound science and good data will lead to less logging. This is simply not true. Managing forests for their various uses, which include harvesting timber, requires an understanding of the entire system, including the plants, animals, even the pests that sometimes inhibit or damage growth.

To improve forest management, in December of 1997 the Chief of the Forest Service appointed an independent committee of scientists to advise him on ways to bring better science into forest planning. The panel's findings strongly recommended the use of scientific evidence in managing forests. The panel repeatedly advised that monitoring is critical to sustaining forest health.

In the cases that section 329 seeks to overturn, the courts simply require the Federal Government to undertake the monitoring that their own forest plans and rules require. Supporters of section 329 argue that the courts in these two cases have deviated from rulings by other courts where challenged timber sales were allowed to proceed. In other cases—and here is the important difference—the courts had enough data to rule in favor of the Forest Service. There was evidence to show that while the data gathered may not have been exhaustive, at least it was adequate.

In the most recent cases that section 329 seeks to overturn, the courts, after noting deference to the Forest Service, recognized the job simply had not been done adequately or at all. The courts didn't rule that each and every species had to be monitored. They simply said to the Federal Government: You have to follow your own rules. You have to gather the data in which a sound decision can be based.

For example, the Eleventh Circuit decision delayed seven timber sales in the southern Appalachian forest in Georgia until the Forest Service completed an evaluation of the impact the sales would have on the forest environment.

The purpose of the information gathering is to ensure that the Forest Service makes an informed decision before it allows the removal of expanses of

timber that could be crucial to survival of endangered or threatened species or that could affect overall forest health.

In a similar action, a Federal judge in Washington State has delayed over 25 timber sales until the Forest Service completes the survey work required by the Northwest Forest Plan.

In the case involving the southern Appalachian forest, the Forest Service failed to develop the required baseline data on a number of species in both the endangered and the threatened category and in a category known as ''indicator'' species. For example, the Forest Service had no population inventory information at all for 32 of 37 species in one category. The court of appeals ruled that in proffering the tracts of timber for sale, the Forest Service failed to comply with its own regulations. The court didn't just determine that the data was inadequate; the court determined that the data was nonexistent.

Under most forest plans, the Forest Service develops lists of indicator species to provide a basis for monitoring. These lists have species such as deer, bear, bass, and trout. These species are representative of all the other species in the forest. The list is short and it is designed to be easy to monitor.

In the Eleventh Circuit case, the Forest Service developed such a list but then failed to gather any information on most of the species on the list. In the Northwest, the court found that the Forest Service sidestepped similar requirements of the forest plan.

The Northwest Forest Plan is the legal and scientific framework that allows timber sales to go forward in the old growth forests of the Northwest. As our colleagues will recall, lawsuits in the early 1990s brought logging in that region to a complete halt. The Northwest Forest Plan, which was the result of lengthy and often painful negotiations, allowed timber sales to go forward, provided that there was an adequate basis to make an informed decision. The agreement provides the best hope of sustained yield and multiple use. This latest ruling by the Western District Court of Washington is a reminder that the agreement is the operating plan for the forests, and that guidance memorandum cannot exempt the Forest Service from its duty. This ruling will delay timber sales but only until the Forest Service completes the work laid out in the plan.

Of the 80 surveys in question, all but 13 have protocols developed that will allow survey work to move forward. These decisions are not a result of overstepping by the courts. They are a result of the courts examining the rules the Forest Service laid out for itself and merely requiring the Forest Service to operate by the rules it adopted.

Let me quote from the Eleventh Circuit decision:

> While the Forest Service's interpretation of its Forest Plan should receive great deference from reviewing courts, courts must overturn agency actions which do not scrupulously follow the regulations and procedures promulgated by the agency itself.

I suggest to our colleagues who support section 329 that we should not as a result of one court decision turn our backs on the necessity of developing good information on plant and animal populations in our national forests. This data is the basis of the good science we keep talking about. It will add to our knowledge. In fact, most forest districts already have a substantial amount of data and continue to develop more. The majority of sales are moving forward under the existing rules and plans. It would be a mistake to let delays in a few timber sales negate all of the important work that is now being done. Section 329 effectively stops data gathering for the coming fiscal year.

In addition, section 329 establishes a new standard to be applied by the Forest Service and the Bureau of Land Management for determining when to approve timber sales. However, according to the agencies that are required to implement the change, rather than speed timber sales up, it would slow them down. To understand the effect of this change, we ought to hear from those who will be responsible for implementing the change.

In a statement issued jointly by the Secretaries of Agriculture and Interior they say:

> [I]f this rider were adopted, tens of thousands of individual management activities and planning efforts would be subject to a new legal standard.
>
> This would have the unintended effect of increasing project costs and increasing delays in order to conduct time-consuming reviews of administrative records to document compliance with the new standard.
>
> Increased litigation and delay could also be expected as plaintiffs seek to define the new standard in court.
>
> In an effort to free up a limited number of timber sales in Georgia and the Pacific Northwest, the Senate would unnecessarily override the Federal Court ruling, agency regulations, and resource management plans requiring the Forest Service and Bureau of Land Management to obtain and use current and appropriate information for wildlife and other resources before conducting planning and management activities.
>
> Moreover, the bill language applies not just to timber sales decisions and required surveys in the forests of the Southeast and Pacific Northwest, but to all activities for which authorization is required on all lands managed by the Bureau of Land Management and the Forest Service.
>
> As such, it could result in far-reaching, unintended negative consequences.

In short, the Secretaries who would be required to implement the new standard write that:

> Section 329 is unnecessary, confusing, difficult to interpret, and wasteful.
>
> If enacted, it will likely result in costly delays, conflicts, and lawsuits with no clear benefit to the public or the health of public lands.

The Forest Service, which is charged with implementing the court's ruling, is acting. In the southern Appalachian forests, they are modifying the forest plan and have developed guidance to help meet the court's directives. In the Northwest, they are completing a supplemental environmental impact statement that will respond to the court's concerns.

Incidentally, the SEIS was in process before the court ruled because the Forest Service had already recognized that the plan needed adjusting, and the plan has mechanisms in it to accommodate change.

The Forest Service does not believe this rider is necessary in order to approve timber sales. In fact, they believe it will interfere with timber sales.

I want to emphasize an additional problem with section 329. It does not just apply to timber sales. Again, according to the Secretaries of Agriculture and the Interior:

> The provision which applies for one year would apply to all of the nearly 450 million acres of land managed by the two agencies and would apply to all management activities undertaken by the bureaus, not just timber sales.

We should not be putting a rider on an appropriations bill to lower the standard for government agencies in the hope that it might pass unnoticed. One of the reasons people get cynical about their government is that it does not always do what it says it will do. In this case, we would lower the bar for agencies that do not want the bar lowered. The Forest Service believes that it can do the job right. We would do a disservice to this body and to the people who expect us to protect our national treasure by not demanding that Federal agencies make informed decisions with adequate data.

What section 329 proposes to do is lower the standard the first time that agency fails to meet it. I believe this is the wrong approach. I believe we should strike section 329 from this appropriations bill and that the Federal Government should comply with the laws we have passed and the rules it has established and the plans it has adopted.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1603

Mrs. BOXER. Mr. President, I thank the Senator from Virginia for his very important comments. I rise in very strong opposition to the Hutchison amendment that was laid aside and about which, as I understand it, probably we will have to vote on a cloture motion. I await the word of the chairman on that.

I want to tell my colleagues that this is a very serious matter. I hope they will listen very carefully as to why the arguments against the Hutchison amendment are so important. I am going to say some very strong things on the floor. But everything I say will be backed up by fact, backed up by quotes, backed up by court cases, backed up by recent history on oil royalty payments.

What the Hutchison amendment will do for the fourth time is to stop American taxpayers from receiving the

amount of oil royalties they are owed by the oil companies. Let me repeat that. The Hutchison amendment will stop the American taxpayers from receiving the fair share of oil royalties that they deserve. If it does pass, and I hope it does not, it will sanction that. It will say to the oil companies: It's OK, you continue, big oil companies, underpaying your oil royalties. We know they have a plan to underpay. We know that. We have heard it from people who have blown the whistle on the oil companies.

If we go with the Hutchison amendment, our fingerprints are on this defrauding of the taxpayers. This is very serious business. I ask my colleagues to pay attention, because when this issue was last before us, we did not have a whistleblower who worked for the oil companies in court, saying that the oil companies, in essence, defrauded the taxpayers and they planned to do so. We have that information. I will lay it before the Senate.

What is an oil royalty payment? Right here you see what a royalty payment is. The oil companies sign an agreement with the Federal Government that when they drill on Federal lands in any State of the Union, be it onshore or offshore, they must pay a fair percentage, 12.5 percent, of the value of that oil over to the Federal Government. It is like paying rent. It is not a tax; it is a royalty payment.

If you do not own the place in which you live, you pay rent. Imagine if you decided on a daily basis what that rent ought to be. No, no, no—you would go to jail or you would be evicted because you have signed a contract to pay a certain amount of rent. The oil companies have signed a contract to pay a certain amount of rent based on the oil they extract from Federal lands. Here it is. It ''shall never be less than the fair market value of the production.'' Keep that in mind, ''fair market value of the production.'' They have to base their royalty payment on the fair market value of the oil.

Senator DOMENICI was on the floor and he said beware of colleagues who start talking about Congress' slick deal with the oil companies. He said beware.

I am not saying it; USA Today said it. USA Today said it is ''time to clean up Big Oil's slick deal with Congress.'' They say, in their view, ''industry's effort to avoid paying full fees hurts taxpayers [and] others.''

Here is what USA Today says on the subject in this article. They knew the Hutchison amendment was coming and this is what they said.

> Imagine being able to compute your own rent payments and grocery bills, giving yourself a 3 percent to 10 percent discount off the marketplace. Over time, that would add up to really big bucks. And imagine having the political clout to make sure nothing threatened to change that cozy arrangement.

They go on to say the fact that ''big oil has contributed more than $35 million to national political committees and congressional candidates.'' They say that is ''a modest investment in protecting the royalty-pricing arrangement which has enabled the industry to pocket an extra $2 billion.''

This is a very bad situation. If you vote for the Hutchison amendment, you are aligning yourselves with a planned effort to defraud taxpayers. I do not know how many of my friends want to go home and face their constituents and make that argument. This is what USA Today continues saying:

> That's millions of dollars missing in action from the battle to reduce the Federal deficit and from accounts for land and water conservation, historic preservation, and several Native American tribes. In addition, public schools in 24 States have been shortchanged: States use their share of Federal royalties for education funding.

They conclude by saying:

> . . . the taxpayers have been getting the unfair end of this deal for far too long.

We have a chance to stand up for the consumer, for the taxpayers, against cheaters, against people who would knowingly defraud taxpayers, if we do not support the Hutchison amendment, if we oppose it.

We heard the Senator from Texas say: Oh, my God, things are terrible for oil. We are suffering in the oil industry.

What she does not tell you is something very important: 95 percent of the oil companies are not affected by the rule the Interior Department wants to put into place which will fix this problem. The Hutchison amendment stops them in their tracks and prohibits them from fixing this perpetual underpayment of royalties. That is what the Hutchison amendment does.

She says big oil and oil across the board is hurting. Ninety-five percent of the oil companies are not affected. They are decent. They are paying their fair share of royalties. It is the 5 percent that are doing this slick thing that are, instead of paying their royalty based on a market price, they are paying it based on a posted price which they post. They decide what the price is, and we know they are cheating us. How do we know that? That is a tough thing for a Senator to say, but I want to prove it to you.

First of all, we know this for sure: Seven States have already won battles in court against oil companies. The seven States have said that the oil companies are underpaying their royalty payments to the Federal Government and the States' share of those royalty payments, therefore, are lower. The oil companies have settled with these States.

If they were doing the right thing, do you think they would be settling for $5 billion so far? I doubt it. If they were so innocent, do you think they would be shelling out—''shelling'' is a good word—$5 billion to seven States? By the way, the Federal Government is suing as well. We do not want to have to keep these battles in court. The Interior Department wants to fix these problems so nobody will have to sue anymore. There will be a fair payment. So one reason we know they are cheating us is they are settling these cases all over the country.

There is another reason we know. This one is very direct and this one is new. I urge my colleagues at their peril to pay attention to this matter, please:

> A retired Atlantic Richfield employee has admitted in court that while he was Secretary of ARCO's crude pricing committee, the major's posted prices were far below fair market value.

He goes on to say—Anderson is his name:

> He admitted he was not being fully truthful 5 years ago when he testified in a deposition that ARCO's posted prices represented fair market value. He said: ''I was an ARCO employee. Some of the issues being discussed were still being litigated. My plan was to get to retirement. We had seen numerous occasions, the nail that stood up getting beat down.'' Said Anderson, ''The senior executives of ARCO had the judgment that they would take the money, accrue for the day of judgment, and that's what we did.''

Here is a retired former employee of one of the oil companies that has been ripping off the taxpayers admitting it in a court of law—he could go to jail if he lies—swearing on a Bible, an oil company man, that they sat around and agreed to understate the value so they could get away with it and wait for the day of judgment. Talk about a smoking gun, here it is. This is new information, and yet Senator HUTCHISON is asking you to stand with those people, one of whom admitted they actually had a plan to defraud the taxpayers.

This is a very serious issue. It is not politics. It involves a plan to understate the market price. It is wrong.

Mr. DURBIN. Will the Senator from California yield for a question?

Mrs. BOXER. I will be happy to yield.

Mr. DURBIN. I want to ask my colleague, the Senator from California, if she will clarify several things so those following the debate understand the parameters of this issue. In every instance here are we talking about private oil companies drilling for oil on public lands?

Mrs. BOXER. That is correct, I say to my friend. These are private oil companies that have signed an agreement with the Federal Government to pay the royalty payment based on the fair market value when they drill on land that is owned by the people of the United States of America.

Mr. DURBIN. I further ask the Senator from California, it has been my experience in Illinois that coal mining companies and oil exploration companies will go out and buy private land, at least an easement or right to drill on private land, and pay compensation to the landowner for that purpose. But in this situation, we are dealing with land owned by the people of America——

Mrs. BOXER. Correct.

Mr. DURBIN. That these companies are using to make a profit; is that correct?

Mrs. BOXER. That is absolutely correct.

Mr. DURBIN. And their payment to the taxpayers for the use of our land, the land owned by the taxpayers across America, is this royalty; is it not?

Mrs. BOXER. That is correct.

Mr. DURBIN. Can the Senator from California explain the impact, then, of the Hutchison amendment, how this will affect the royalty that is paid by the oil companies that want to drill for oil and make a profit from that oil off land owned by taxpayers?

Mrs. BOXER. What the Hutchison amendment does is it puts off for the fourth time any move by the Interior Department to fix the problem we are facing with this underpayment of the royalties that are due the taxpayers.

The Interior Department has held a series of 17 meetings across the country. They have met with the oil companies, they have met with Members of Congress, they have done everything, and they are ready to finalize a rule. Every time they are ready to promulgate a rule to fix this problem, up comes one of the Senators from the oil States who says: Oh, wait, wait, wait, it is too complicated; it isn't a good idea.

It isn't a good idea from the oil companies' perspective because as we just heard this one whistleblower say, they want to put off the day of judgment and use this float to make more and more money. But my friend is right in his questions.

Mr. DURBIN. I say to the Senator from California, let's consider two possibilities. If the royalty is based on the price of oil, there is a possibility that the royalty payments might go down if it is recalculated; there is a possibility that it might stay the same, or it might go up.

But I take it from this amendment that the oil companies that are pushing this amendment are so certain that their payments to the Federal Government are going to go up that they want to stop the Federal Government from recalculating the royalties.

The net impact of this, and the Senator from California can correct me, is that the oil companies are being protected from paying their fair share of rent or royalties for using public lands, and the taxpayers, because of this amendment, are the losers. We are the ones who do not get the royalties back from those who want to drill all the oil out of land that we own and not pay the taxpayers of this country for the right to do so.

Mrs. BOXER. I say to my friend, I can put it in specific dollars. Already the Hutchison amendment, since she first offered it and our colleagues backed her on it, has lost taxpayers $88 million, and if she succeeds in this, although Senator HUTCHISON has pared it back to a year, another delay of a year, it is another $66 million. That is a lot of millions of dollars. Taxpayers already have lost $88 million, and they are about to lose another $66 million unless we can stop this. The Interior Department is with us 100 percent.

Mr. DURBIN. If the Hutchison amendment prevails and is not defeated——

Mrs. HUTCHISON. Mr. President, I wonder if the Senator will yield on that point because I think there has been an error in the amount that we are talking about.

Mr. DURBIN. If I can say to my colleague, the Senator from Texas, I was only asking a question of the Senator from California who I believe has the floor.

Mrs. BOXER. And I will address this——

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. BOXER. I have a letter that backs up those numbers which I will put in the RECORD. I will continue to yield for a question.

Mr. DURBIN. The point I am getting to is, if the Hutchison amendment is adopted, then basically we are giving a discount to these oil companies from the amount they owe taxpayers for drilling oil out of public lands and selling it at a profit; is that the net impact of this amendment?

Mrs. BOXER. That is correct.

Mr. DURBIN. I know we are in an era of surpluses where we are trying to figure out ways to give away money, but I ask the Senator from California why would we decide to give money to oil companies at this point? Why adopt an amendment that would give them additional profits for drilling oil on lands owned by the taxpayers, the people of America?

Mrs. BOXER. Mr. President, I think this is a special interest rider. I have to say that, with all due respect. By the way, it doesn't give money to all the oil companies. It only gives it to the top 5 percent, the ones that are vertically integrated. Ninety-five percent of the oil companies are not affected, and they are paying the fair market value. They are paying the royalty based on the fair market value.

I ask unanimous consent, before yielding to the Senator for more questions, to have printed in the RECORD a letter from the Secretary of the Interior, which was based on the original Hutchison amendment, which addresses the question of the dollars lost. It is very clear what will be lost. In her additional amendment of 21 months, they calculate it at $120 million, and we are just paring it back to the 1-year number. We also have a letter from the Office of Management and Budget which clearly states that the rider, as it is before us now, will cost taxpayers about $60 million.

I ask unanimous consent to have those two documents printed in the RECORD when I complete my remarks.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Mr. President, I object. I do want the Senator to be able to enter her documents in the RECORD, but I want to also have entered in the RECORD that the Congressional Budget Office has estimated it would be $11 million. That would be the cost to the taxpayers; that is, if the oil companies continue to drill. So she may——

Mrs. BOXER. Mr. President, may we have regular order.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I don't ever remember having one Senator object to another Senator putting a document in the RECORD. I am kind of shocked at that.

I ask, again, unanimous consent to have printed in the RECORD the two Federal agencies versus the one that back us up on our documentation. I ask unanimous consent that I be allowed to have those printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. I will not object, as long as the RECORD also shows the CBO has said $11 million and that assumes people are not going to go out of business.

Mrs. BOXER. Mr. President, I have no objection to the Senator entering into the RECORD anything she wants, but I can say very clearly that we know what this is costing.

The Senator herself admits it is $11 million taken out of taxpayer pockets. We believe it is $66 million.

I continue to yield to my friend.

Mr. DURBIN. Mr. President, it is my understanding that these payments, these royalties come through the Federal Government and back to many of the States. Is my understanding correct?

Mrs. BOXER. Absolutely. In other words, if there is oil being drilled in Texas, it is on Federal lands, but the Federal lands are within Texas. Texas gets 50 percent of the royalty payment. I know in California, it is 50 percent if it is onshore and about 25 percent if it is offshore. In many of the States, including California, these funds go directly into the classroom and to the schools.

Mr. DURBIN. So in some of the States, for example, Texas and California, if the Hutchison amendment passes, there will be fewer dollars from these royalty payments coming back to the States of the two Senators engaged in this debate.

Mrs. BOXER. That is correct, and into the classrooms.

Mr. DURBIN. I ask the Senator, it is my understanding from her previous statement that many of the States have sued the oil companies saying: You didn't pay enough. You owed us more in royalties. You underpaid the amount you were required to pay for drilling for oil on federally owned public lands for profit.

Mrs. BOXER. My friend is correct. To be very specific, I will tell the Senator, the oil companies that are being so defended here have agreed in court to pay up not $1 billion, not $2 billion, but $5 billion to these States; in essence,

agreeing that they undervalued. Alaska got $3.7 billion, for example; California, $345 million. By the way, private owners are also complaining, and they have resolved some of the disputes for $194 million.

Mr. DURBIN. I ask the Senator from California, as a followup question, so I understand it completely, these private oil companies go on to public lands, drill for oil which they sell for a profit. They are charged a royalty based on the price of the oil. The impact of this amendment by the Senator from Texas would be to say to the Department of the Interior: You cannot recalculate the royalty to raise it. So we are protecting these oil companies from an increase in what they are going to pay taxpayers for drilling on public land, which means more money in their pocket. The losers are not only Federal taxpayers but States such as Texas and California and their taxpayers who lose the benefits of the money that might come back to them from these royalties?

Mrs. BOXER. My colleague is right. But it is even worse than that because a royalty payment is a contract. The oil companies have signed a contract. It says very clearly ''fair market value.'' It is not that the Interior Department wants to increase the percent, for example, that is paid; they just want to make sure the contract is carried out.

It says: The value of production for purposes of computing royalty on production from this lease ''shall never be less than the fair market value of the production.'' So all they are trying to do is correct a serious problem. And we know, because I can show my colleague another chart on posted prices versus the market prices of ARCO, I will show him what has happened. Right now the oil companies, these 5 percent of them that are cheating us, they base their royalty payment on what they call posted prices. They create the price. If we could show this to the Senator, look at the difference between the market price and the posted price. This is one oil company, but I could show my friend, every single one of these oil companies, by some kind of magic action, they have the same spread. And if you heard what the ARCO executive said, the former executive, they did this on purpose. They made the posted prices below the market price.

Mr. DURBIN. I only have three questions, and I will stop.

Mrs. BOXER. I appreciate my colleague asking as many questions as he wants.

Mr. DURBIN. The Senator made reference to a Wall Street Journal article where a former official from ARCO said—was this under oath or was it just a public statement in terms of their efforts to try to reduce the royalty payments to the Federal Government for this private company to drill oil on public land and make a profit?

Mrs. BOXER. The article that I quoted is Platt's Oilgram News—an oil industry newsletter. In fact, my colleague is right, they talk about a court case in which a retired Atlantic Richfield employee admitted in court——

Mr. DURBIN. Under oath.

Mrs. BOXER. Under oath, penalty of perjury, that while he was secretary of ARCO's crude pricing committee, the major's posted prices were far below the market value.

Mr. DURBIN. So this gentleman, no longer employed, conceded the point which you have been making during the course of this debate, that these oil companies are really cheating the Federal Government, the taxpayers of this country, because they are using our public lands and not paying a fair royalty payment for the oil they are extracting and selling at a profit.

Mrs. BOXER. That is absolutely right. They are basing their royalty payment on a price that is not reflective of the fair market value. It is a price they made up. It is as if one day you woke up and let's say you paid rent, which my friend probably does here in Washington, DC, and you just decided one day that the fair market value of the rent was lower than your lease.

Mr. DURBIN. My landlord wouldn't allow that.

Mrs. BOXER. He would not allow that. He would probably evict you. Yet what do we have here in this Senate. We have Senators standing up condoning this kind of behavior.

Mr. DURBIN. I ask the Senator from California, in my home State of Illinois, there are many small oil producers that are going through very difficult times. Some of them may not survive. There has been an argument made that we have to give this break, in the Hutchison amendment, to these oil companies to help these small producers and help the oil industry.

If I vote against the Hutchison amendment and go home to Illinois and face these small oil companies that are trying to survive in difficult times, will they be saying to me: You have just cut off the flow of money to us? What companies are affected by this Hutchison amendment?

Mrs. BOXER. First, let me say there are 777 companies that are not impacted at all by this Interior rule, but there are 44 companies that are impacted. Let me say to my colleague, I voted to help the small oil companies. I was proud to support the Domenici amendment. We took it up recently when we helped the steel companies. If we want to help the oil companies because they are having tough times, I will be right there. If there are reasons to help smaller companies, I am right there. And I have always been right there.

But it seems to me we can't stand on the floor of the Senate and help the largest oil companies—most of these are the largest; not all, but most—5 percent of the oil companies that are out-and-out cheating the taxpayers. We know it because it has been testified to in a court of law, and we know it because they have been settling these cases all over the country. My friend should feel very comfortable when he opposes the Hutchison amendment case that he is impacting only 5 percent.

(Mr. SMITH of Oregon assumed the Chair.)

Mr. DURBIN. Will the Senator yield for a question?

Mrs. BOXER. Yes.

Mr. DURBIN. Is the Senator aware of the fact that the Los Angeles Times, on July 20 of this year, in analyzing this debate, concluded by saying, ''not since the Teapot Dome scandal of the 1920s has the stench of oil money reeked as strongly in Washington as it is in this case''?

I ask the Senator from California, isn't it odd that on an appropriations bill we are considering a string of riders that are of such import and controversy, putting them on a spending bill instead of having a hearing so the oil companies could come in and try to defend, if they would like to, so the Department of the Interior can come in and basically explain why they think taxpayers across America are ripped off by this amendment? It seems to me to be an odd state of affairs that we have seven, eight, or nine different riders on this bill which really go to important, substantive issues that have not been addressed by this Congress during the course of this year. Does the Senator agree with me that this is an exceptional procedural issue to be taking up on a spending bill?

Mrs. BOXER. Well, I think it is not appropriate. I hope the Senator from Texas will not proceed with this. She knows if she does—and we are very open about this—we are going to be on our feet a long time. So we are going to have a cloture vote to see where this all comes out. I want to say this to my friend and then I will yield to my friend from Idaho.

Mr. CRAIG. I just have a question on procedure, not on the substance, if the Senator would not mind yielding.

Mrs. BOXER. I do mind yielding at this point. I don't want to lose my train of thought.

My friend is so right in his understanding of what this means. This is an example of legislating on an appropriations bill. This Hutchison amendment was put into the committee and stripped out because of the way it was put into the committee. It was stripped out. It has been defined and technically changed, and now it is being offered. But it is still the same thing. You know, you can put a dress on a hippopotamus and it still looks like a hippopotamus. That is what this is. This is a very ugly amendment.

I want to mention one thing in answering the question. I was very pleased that my friend read the Los Angeles Times editorial. It is a newspaper that now has Republican ownership. I think that is very important. I want to read a couple of other statements from it. I see my friend from

Wisconsin is here. Is he going to ask me a question as well?

Mr. FEINGOLD. Yes.

Mrs. BOXER. This Los Angeles Times article says, ''The Great American Oil Ripoff.''

It says:

America's big oil companies have been ripping off Federal and State governments for decades by underpaying royalties for oil drilled on public lands. The Interior Department tried to stop the practice with new rules, but Congress has succeeded in blocking their implementation, and will again if the Senate bill calling for a moratorium on the new rules proposed by Senators Hutchison and Domenici comes up before the Senate.

It has and here we are.

The large integrated oil companies, not the small independent producers, have been cheating the State and Federal Treasuries by computing their royalties on the so-called ''posted rights'' rather than the fair market price.

That is what we are talking about, computing royalties on posted rights, rather than fair market price.

It could be as much as $4 or $5 a barrel lower. The Interior Department estimates this practice costs the taxpayers up to $66 million a year.

Senator HUTCHISON says it is $11 million, and that is a lot; but we think it is $66 million, and so does the OMB.

Two years ago, Interior drew up rules that would stop the underpayment but Congress has blocked implementation.

They go on to explain:

The bottom line is, Congress should not buckle to the pressure of the oil companies, and the Hutchison amendment should be defeated.

Mr. CRAIG. If the Senator will yield briefly, I will leave the Senators to debate this. We have the Robb amendment on the floor. Several of us came to debate that, expecting it would be stacked for a vote in the morning. Obviously, you are going to continue this debate into tomorrow. I wonder what your plan is for the evening because it is predicated upon a unanimous consent agreement that we want to craft. If you plan to debate late into the evening, we will not stay.

Mrs. BOXER. No, we don't.

Mr. CRAIG. There are four Senators, including the Presiding Officer, who came to the floor because the Senator from Virginia was on the floor with his amendment. We hoped to debate that within the next 35 to 40 minutes if the Senator will consider yielding the floor.

Mrs. BOXER. I don't have any intention of talking more than 40 minutes. I will be yielding for a question. I thought the Senator came because he was drawn into this debate.

Mr. CRAIG. No. I just say I think it is a rather baseless debate, with a lot of politics.

Mrs. BOXER. I was trying to——

Mr. CRAIG. I will stay out of the substance.

Mrs. BOXER. I was trying to use a little bit of humor.

Mr. CRAIG. I am more interested in the timing for this evening, on behalf of five Senators.

Mrs. BOXER. I told my friend the time. I don't intend to go over 40 minutes.

Mr. DURBIN. Will the Senator yield for a question?

Mrs. BOXER. I will be glad to yield for a question.

Mr. DURBIN. Not only do I not think this is baseless, I want to touch all the bases so the Senator from Idaho can understand why we think this is worthy of debate on the floor of the Senate.

I ask the Senator from California this: We had a big debate about welfare reform and welfare ''Cadillacs.'' We are talking about welfare ''tankers'' here—$11 million—or $66 million going to these major oil companies. I say to the Senator from California, how many times have we done this? How many times have we postponed this decision by the Department of the Interior to give to the taxpayers of this country the fair share they are entitled to for these oil companies to use our lands—the lands of people who live in Illinois, California, Idaho, and Texas—to drill oil. How many times has the industry come in and, with an amendment similar to the one before us, tried to stop this recalculation?

Mrs. BOXER. This is the fourth time this amendment has come before the body. I have to say to my friend, I don't think it has ever gotten the attention it needs. To come in and say it is a baseless debate, when we are talking about as much as $66 million on top of the $88 million we have already lost from the three other times this amendment came before us, is unbelievable to me. It is unbelievable that we close our eyes to this kind of purposeful rip off, and to call it a baseless debate, I find that amazing.

Mr. DURBIN. If the Senator from California will further yield, is not the fact that these States have come forward in court and sued the oil companies successfully evidence of the fact that the oil companies have been underpaying the Federal taxpayers, as well as the State taxpayers, and this amendment will continue that?

Mrs. BOXER. That is absolutely correct. Let me reiterate what I said. In cases all across this country, there have been settlements in seven different States, and $5 billion has been collected from the oil companies in these settlements. Now, if the oil companies had such clean hands and they were paying their fair amount of royalties, I assure my friend they would not part with $5 billion—I didn't say million, I said $5 billion. I don't even know what $5 billion looks like in a room. All I can say to my friend is, it is more than we spend on Head Start in a year.

Mr. FEINGOLD. Will the Senator from California yield for a question?

Mrs. BOXER. Yes.

Mr. FEINGOLD. I ask the Senator from California this because I share her strong opposition to this amendment, which would allow oil companies to continue to underpay the U.S. Government in royalties for drilling on public lands. It is my understanding this rider was modified by the managers' amendment. But, as originally drafted, the rider blocks the implementation of new Interior rules to stop these underpayments, just as their implementation was blocked in the last Congress; is that correct?

Mrs. BOXER. Yes. This is the fourth time that this Interior Department ''fix'' to ensure fair royalty payments has been stopped in its tracks, unless we defeat the Hutchison amendment.

Mr. FEINGOLD. I know the Senator from California is obviously concerned about big windfalls for the oil companies. The Interior Department estimates that underpayments by the oil companies cost the taxpayers up to $66 million a year. I am wondering if she is aware of some of the largest oil companies that benefit from it.

Mrs. BOXER. I would be very pleased if the Senator could put that into the RECORD because I haven't done that.

Mr. FEINGOLD. They are not small mom-and-pop, independent producers. They are companies like Exxon, Chevron, BP Oil, Atlantic Richfield, and Amoco. I ask the Senator if she is aware of some of the campaign contributions that entities such as this put forward in order to achieve this end.

Mrs. BOXER. I am very glad the Senator put out some of the names of the big oil companies that would be impacted by this Interior rule that Senator HUTCHISON is trying to get. Fully 95 percent of the oil companies are not impacted. Only 5 percent are impacted. The 95 percent of the others are paying their fair share of royalty payments. That is something to be happy about. They are good corporate citizens paying their fair share of royalty payments based on fair market value just as they signed in their lease agreements with the United States of America. But it is the 5 percent of most of the large ones that are getting away with it.

I say to my friend that he is a champion of campaign finance reform. I am so proud to be associated with him on that issue.

I can only say to my friend that this issue was mentioned in the USA Today editorial, dated Wednesday, August 26, 1998, that big oil has contributed more than $35 million to national political committees and congressional candidates. They make the point. These are their words, not my words. They say that is a modest investment for protecting royalty pricing arrangements which enables the industry to pocket an extra $2 billion.

My friend is on a certain track. I think it is important.

Mr. FEINGOLD. I am grateful for the Senator's tremendous leadership on this.

She may be aware that from time to time I do something that I call ''calling of the bankroll''—interest in companies that contribute large sums of

money in terms of campaign contributions.

I am wondering if the Senator is aware that during the 1997–1998 election cycle oil companies gave the following in political donations to the parties and to Federal candidates:

Exxon gave more than $230,000 in soft money and more than $480,000 in PAC money.

Chevron gave more than $425,000 in soft money and more than $330,000 in PAC money.

I wonder if the Senator is aware that Atlantic-Richfield gave more than $525,000 in soft money and $150,000 in PAC money.

BP Oil and Amoco, two oil companies which merged into the newly formed petroleum giant, BP Amoco, gave a combined total of $480,000 in soft money, and nearly $295,000 in PAC money.

This is just some of the information we have. I don't know if the Senator was aware of these figures.

Mrs. BOXER. I say to my friend that I was not aware of those specific figures. It is very rare that I feel that if Congress goes along with something it is really part of an ugly situation. I feel that way here. I feel that we have enough information now to take a stand with the Interior Department, with the consumers, and with over 70 groups that stand with us against the Hutchison amendment.

I hope my friend will listen to some of these groups because my colleague, my friend from Texas, listed groups that were with her. I think it is important that we compare these groups, who they stand for, and who they speak for. They are with us on our side trying to stop this oil company rip off, stop the Hutchison amendment: American Association of Educational Services Agencies, American Association of School Administrators, the American Lands Alliance, the Americans Ocean Campaign, the Better Government Association, Common Cause, Consumer Project on Technology, Council of State School Officers, Friends of Earth, Funds for Constitutional Government, Government Accountability Project, Green Peace, the Mineral Policy Standard, National Environmental Trust, National Parks and Conservation Association, the National Rural Education Association, the National Resources Defense Fund, the Navajo Nation, Ozone Action, Public Citizens, Congress Watch, Public Employees for Environmental Responsibility, Safe Energy Communication Council, the Surface Employees International Union, and the Taxpayers for Common Sense.

They are with us on this.

The United Electrical-Radio Machine Workers of America.

These are just some of the groups that are opposed to the Hutchison amendment, for one basic reason: They believe the big oil companies, the 5 percent of them, are cheating the taxpayers.

These are all public interest groups.

Mr. FEINGOLD. I finally ask the Senator to make the comparison between the list that she just read. By and large these are very important groups that represent the average people of this country. There is no way four of them could get together and give $2.9 million as these four corporations I just described did. Obviously these four corporations want this rider to be a part of the Interior appropriations bill. It is the powerful political donors. They may well get their way despite the credibility of groups and interests that the Senator just indicated.

I, again, very much thank the Senator from California for her leadership on this.

I rise today to share my concern about the number and content of legislative riders to address environmental matters contained in the FY 2000 Interior Appropriations Bill. I hope that all provisions which adversely effect the implementation of environmental law, or change federal environmental policy, will be removed from this legislation when it returns to the floor.

I believe that the Senate should not include provisions in spending bills that weaken environmental laws or prevent potentially environmentally beneficial regulations from being promulgated by the federal agencies that enforce federal environmental law.

I want to note, before I describe my concerns in detail, that this is not the first time that I have expressed concerns regarding legislative riders in appropriations legislation that would have a negative impact on our nation's environment.

For more than two decades, we have seen a remarkable bipartisan consensus to protect the environment through effective environmental legislation and regulation. I believe we have a responsibility to the American people to protect the quality of our public lands and resources. That responsibility requires the Senate to express its strong distaste for legislative efforts to include proposals in spending bills that weaken environmental laws or prevent potentially beneficial environmental regulations from being promulgated or enforced by the federal agencies that carry out federal law.

The people of Wisconsin have caught on to what's happening here. They continue to express their grave concern that, when riders are placed in spending bills, major decisions regarding environmental protection are being made without the benefit of an up or down vote.

Wisconsinites have a very strong belief that Congress has a responsibility to discuss and publicly debate matters effecting the environment. We should be on record with regard to our position on this matter of open government and environmental stewardship.

I have particular concerns regarding several riders contained in this bill. I will site three examples of provisions of concern to me. I am concerned that we failed to strip the rider on the mining millsite issue. This is the second rider of this type we have considered. In Section 3006 of Public Law 106–31, the 1999 Emergency Supplemental Appropriations Act, Congress exempted the Crown Jewel project in Washington State from the Solicitor's Opinion. This rider, in contrast to the previous rider, applies to all mines on public lands.

I am also concerned that we have chosen to again include a grazing policy rider as well. It requires the Bureau of Land Management to renew expiring grazing permits under the same terms and conditions contained in the old permit. This automatic renewal will remain in effect until such time as the Bureau complies with ''all applicable laws.'' There is no schedule imposed on the Agency, therefore necessary environmental improvements to the grazing program could be postponed indefinitely. This rider affects millions of acres of public rangelands that support endangered species, wildlife, recreation, and cultural resources. The rider's impact goes far beyond the language contained in the FY 1999 appropriations bill, in which Congress allowed a short-term extension of grazing permits which expired during the current fiscal year. As written, this section undercuts the application of environmental law, derails administrative appeals, and hampers application of the conservation-oriented grazing Guidelines.

I also want to voice my opposition to the amendment that would allow oil companies to continue to underpay the U.S. government in royalties for drilling on public lands. I understand that this rider was modified by the manager's amendment, but as originally drafted the rider blocks the implementation of new Interior Department rules to stop these underpayments, just as their implementation was blocked in the last Congress.

This is a huge windfall for the oil companies—and as it is with so many special interest provisions that find their way into our legislation, to the wealthy donors go the spoils, while the taxpayers get the shaft. The Interior Department estimates that these underpayments by the oil companies cost the taxpayers up to $66 million a year. And the oil companies that enjoy this cut-rate drilling are not small independent producers. On the contrary, the oil companies that benefit are among the largest in the world. Names like Exxon, Chevron, BP Amoco and Atlantic Richfield.

I'd like to take a moment to Call the Bankroll on these companies, something I do from time to time in this chamber to remind my colleagues and the public about the role money plays in our legislative debates and decisions here in this chamber.

During the 1997–1998 election cycle, oil companies gave the following in political donations to the parties and to federal candidates:

Exxon gave more than $230,000 in soft money and more than $480,000 in PAC money;

Chevron gave more than $425,000 in soft money and more than $330,000 in PAC money;

Atlantic Richfield gave more than $525,000 in soft money and $150,000 in PAC money;

BP Oil and Amoco, two oil companies which have merged into the newly formed petroleum giant BP Amoco, gave a combined total of more than $480,000 in soft money and nearly 295,000 in PAC money.

That's more than $2.9 million just from those four corporations in the span of only two years, Mr. President. They want this rider to be part of the Interior Appropriations bill, and as powerful political donors they are likely to get their way.

I'd like to discuss one final rider, which undoubtedly deserves its own Calling of the Bankroll. Though I understand that this rider has now been modified by the substitute amendment, the underlying bill initially prohibited the use of funds to study, develop, or implement procedures or policies to establish energy efficiency, energy use, or energy acquisition rules. Unchanged, this language would have blocked federal programs which cut federal agencies' energy expenditures, save taxpayer funds, and contribute to reductions in pollution.

In conclusion, I think that delay of mining law enforcement is indefensible, as are the other changes we are making in environmental policy without full and fair debate. I hope my colleagues will join me in demanding that this bill be cleaned up in Conference.

Mrs. BOXER. I thank my friend and commend my friend from Illinois. I think their questions and their caring are very important to this debate. We have to take a stand on the floor of the Senate once in a while for average people—people who are faceless in this institution. They think it is dominated by the special interests. My friend from Wisconsin who works so hard every day to get the special interest money out of this Senate has made a very important point—that the very companies that are going to benefit from the Hutchison amendment have given huge contributions to Federal candidates and to Federal committees.

If you put that together, as my friend points out, with the retired ARCO employee testimony under oath that he lied 5 years ago—he admitted he was not truthful when he testified in the deposition that ARCO-posted prices represented fair market value. He goes on to honestly say he was afraid he would lose his retirement. He was afraid he would be fired. You put together the contributions from big oil with the testimony of this former ARCO employee, who sat in the room when the decision was made to stop taxpayers from getting their fair share—when you put that together with the recent settlements by many States with the oil companies, the oil companies saying to the States: Take your lawsuit out of here. We will pay you billions of dollars to go away. We will not go to court to try to make the case that oil royalty payments are fair. You put all of that together, and it adds up to a bad situation.

I would be so proud of this Senate if we stood together on behalf of the people and on behalf of the consumers against the bad actors in the oil industry, who according to this employee, said we will put off judgment day. We will go take our chances.

The senior executives of ARCO had the judgment that they would take the money, accrue for the day judgment, and that's what we did.

That is what he said.

He said this:

I would not have been there in any capacity had I continued to exercise the right they had given me to dissent to the process during the suggestions stage.

I know colleagues are here on other matters. I just felt it was very important to lay out the case against the Hutchison amendment. I will lay it out again and again and again if I have to. I hope I don't have to. I really could. I hope we can vote against cloture and hopefully rid this bill of this special interest rider that helps the 5 percent of the oil companies that are bad actors.

The 95 percent who are paying their fair share are doing fine; they will not be impacted by the Interior Department. It is just that 5 percent.

This is an important debate. It is not a baseless debate. It is debate on behalf of the hard-working taxpayers. It is a debate on behalf of everyone who pays rent or a mortgage payment every month. Imagine one day waking up and saying to the bank: Guess what. I don't like my mortgage payment. I'm paying less because it is no longer the fair market value as the day I signed up.

I think the bank would say: Renegotiating the interest rate is fine; but if you don't pay your fair share, we are taking you to court and we will repossess your house.

We cannot allow the top 5 percent of oil companies to act in an irresponsible fashion. I hope my colleagues will join with me, Senator DURBIN, Senator FEINGOLD, Senator WELLSTONE, Senator MURRAY, and many other Senators who feel very strongly about this and vote down the Hutchison amendment.

I ask unanimous consent the pertinent letters be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 24, 1999.

Hon. TED STEVENS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to provide the Administration's views on the Interior and Related Agencies Appropriation Bill, FY 2000, as reported by the Senate Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated. These views are necessarily preliminary because they are based on incomplete information, since the Administration has not had the opportunity to review the draft bill and report language.

The allocation of discretionary resources available to the Senate under the Congressional Budget Resolution is simply inadequate to make the necessary investments that our citizens need and expect. The President's FY 2000 Budget proposes levels of discretionary spending that meet such needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance this spending. Congress has approved, and the President has signed into law, nearly $29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals as the FY 2000 appropriations process moves forward. In addition, we urge the Committee to reduce unrequested funding for programs and projects in this bill.

The Administration appreciates efforts by the Committee to accommodate certain of the President's priorities within the 302(b) allocations. However, it is our understanding that the Committee bill makes major reductions to critical requests for the President's Lands Legacy Initiative and for key tribal programs. We also understand that the bill may include a number of environmental provisions that would be objectionable to the Administration—and would likely not be approved by Congress, if considered on their own. We strongly urge the Committee to keep the bill free of extraneous provisions and to address the following issues:

Lands Legacy Initiative/Land and Water Conservation Fund (LWCF). The Administration strongly opposes the Subcommittee's decision not to fund major portions of the President's Lands Legacy Initiative. Overall, only $265 million (33 percent) of the $797 million requested in this bill for the Initiative would be funded. The bill would provide no funding for State conservation grants and planning assistance, and only a portion (11 percent) of the requested increase for the Cooperative Endangered Species Conservation Fund. It would also make significant cuts in State and Private Forestry grants. Federal land acquisition funding would be cut by more than half from the Lands Legacy request, from $413 million to $198 million. It would be short-sighted to gut this important environmental initiative, given the growing bipartisan recognition of the need for the federal government, the states and the private sector to protect open spaces and preserve America's great places.

Land Management Operations. The Administration commends the action of the Subcommittee to address the operational and maintenance needs of land management agencies in Interior and USDA. The Administration is concerned, however, with cuts in key conservation programs. For example, the bill would reduce requests for the Fish and Wildlife Service's endangered species program by $13 million (12 percent) and the Forest Service forest research program by $48 million (25 percent). Increased funding for key programs within the Forest Service operating program, such as wildlife and fisheries habitat and rangeland management, could be offset with reductions in unrequested and excessive funding for timber sale preparation and management.

Environmental and Other Objectionable Riders. The Administration strongly objects to objectionable environmental and other riders. Such riders rarely receive the level of congressional and public review required of

authorization language, and they often override existing environmental and natural resource protections, tribal sovereignty, or impose unjustified micro-management restrictions on agency activities. We urge the Committee to oppose such provisions. For example, the Administration would strongly oppose an amendment that may be offered that would prohibit implementation of the oil valuation rule. Such a prohibition would cost the American taxpayer about $60 million in FY2000.

Millennium Initiative to Save America's Treasures. The Administration strongly objects to the lack of funding for this $30 million Presidential initiative to commemorate the Millennium by preserving the Nation's historic sites and cultural artifacts that are America's treasures.

National Endowment for the Arts/National Endowment for the Humanities. The Administration strongly objects to the proposed funding levels for the National Endowment for the Arts and National Endowment for the Humanities. The Subcommittee's proposed $51 million (34 percent) reduction from the request would preclude NEA from moving forward with its Challenge America initiative which emphasizes arts education and access to under-served communities across America. The $38 million (25 percent) reduction from the request would preclude NEH from expanding its summer seminar series to provide professional development opportunities to our nation's teachers as well as broadening the outreach of its humanities programs. The Administration urges the Committee to approve funding for the Endowments at the requested levels.

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THE SECRETARY OF THE INTERIOR,
Washington, DC, June 30, 1999.

Hon. TED STEVENS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write to express my grave concern over the Interior and Related Agencies Appropriations Bill for FY 2000 reported by the Committee on Appropriations Bill for FY 2000 reported by the Committee on Appropriations. If the bill were presented to the President as it was reported from the Committee, I would recommend that the President veto the bill.

The bill contains a number of objectionable legislative provisions, three of which I'd like to highlight. The amendment on mill sites adopted by the Committee permanently extends the Mining Law's existing near-giveaway of Federal lands to include as much acreage as a mining company thinks it can use for mountains of mine waste and spoil. The amendment further tilts the Mining Law against the interests of the taxpayer and the environment, ignoring the need for comprehensive reform.

The extension of the moratorium on issuance of new rules on oil valuation will delay these rules for an additional 21 months. Revision of the way royalties are collected is urgently needed to assure the taxpayer a fair return. Extension of the moratorium cuts off the dialogue on how best to do this and will needlessly cost the taxpayers about $120 million in lost royalty payments.

It is also my understanding that the Committee adopted an amendment that could limit the implementation of the President's June 3 Energy Efficiency Executive Order to reduce Federal energy costs. Restricting the agencies' ability to improve energy efficiency in our buildings will prevent the Federal Government from saving taxpayer dollars, cutting dependence on foreign oil, protecting the environment through improved air quality and lower greenhouse gas emissions, and expanding markets for renewable energy technologies.

Although I appreciate your efforts in reworking the discretionary spending allocations in order to increase the spending limits for the Interior bill in the face of the limitations placed on you under the Budget Resolution, the funding amount proposed by the Senate denies funding to protect America's open spaces and great places for the future through the President's Lands Legacy initiative, as well as critical requests for land management, trust reform, other Indian programs, and science.

Overall, the reductions to the budget request seriously impair the Department's ability to be a responsible steward of the Nation's natural and cultural resources and to uphold our trust responsibilities to Indians. The 2000 budget sets a course for the new millennium providing resources that are needed to accommodate increasing demand and use of our public lands and resources. In this decade, visits to parks, refuges and public lands have increased up to 31 percent; the number of students in BIA schools has increased 33 percent; and the BIA service population is up by 26 percent.

In this regard, the Committee proposal does not provide sufficient increases to fully operate our National Parks, restore healthy public lands, rebuild wildlife and fisheries resources, clean up streams in support of the Clean Water Action Plan through Abandoned Mine Land grants, or improve the safety of schools and communities for Indians. At the funding level provided, we will be unable to meet the needs expressed by Congress for better stewardship of public lands and facilities, resolution of the Indian trust issue, and improved schools and quality of life in Indian Country. Further, the Committee eliminated funding for the Save America's Treasures program that preserves priority historic preservation projects of national scope and significance.

I urge you to reconsider the contents of the Interior bill and work with the Administration and me towards a more balanced approach. I look forward to working with you to address these concerns.

Sincerely,

BRUCE BABBIT.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I believe the matter before the Senate now is the amendment of Senator ROBB, and I ask consent of the Senator from California that her presentation, including all of her questions and answers, be included in the CONGRESSIONAL RECORD immediately after the speeches of Senators HUTCHISON and DOMENICI so that the debate on that subject be continuous, and that other speeches during the course of the evening be consolidated in the RECORD on the Hutchison amendment.

Mrs. BOXER. I thank my friend for his excellent idea. We should keep this debate seamless.

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

Mr. GORTON. Second, I have a unanimous consent agreement under which there will be two votes on the Bond amendment and a vote on the Robb amendment tomorrow morning that apparently have been cleared.

Before I present that, I say we will be in session long enough this evening for anyone who wishes to do so to speak on the Bond amendment. I believe the Senator from Illinois wishes to speak. The Senator from Missouri (Mr. BOND) may return for that subject. Senator HUTCHISON wishes to speak again on her amendment. There may be other speeches on that. There are three or four people here to speak on the Robb amendment. I want all of the speeches on each of these subjects to be consolidated into one point in the RECORD.

This unanimous consent agreement is not going to limit anyone's right to talk on any of these subjects this evening as long as they wish.

Mrs. BOXER. If the Senator will yield for a question, what is my friend's plan of action on the Hutchison amendment?

Mr. GORTON. I believe a cloture motion on the Hutchison amendment will be filed tomorrow to ripen sometime early next week. There will be lots of time for a discussion of that amendment before any vote on cloture takes place.

I hope during most of tomorrow, however, we will deal with other amendments that can be completed and dispensed with. By the time we get to a vote on the cloture, we are pretty close to the end of debate on this bill. I don't know if that is true or not. We will have dealt today in whole or in part with 4 of the 66 amendments that are reserved for the Interior appropriations bill. I trust some will go faster than many of those today.

I will state the unanimous consent agreement. Then I intend to speak briefly on the Robb amendment. I believe the Presiding Officer and Senator CRAIG will also speak on that.

UNANIMOUS CONSENT AGREEMENT

Mr. GORTON. I ask unanimous consent that immediately following the vote scheduled at 9:30 a.m. on Thursday, notwithstanding rule XXII, the Senate resume consideration of the Interior appropriations bill and there be 2 minutes equally divided prior to a vote in relation to the Bond amendment No. 1621; following that vote, there will be 2 minutes equally divided on the pending Robb amendment No. 1583. I ask unanimous consent no amendments be in order prior to these votes.

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

Mr. GORTON. In light of this agreement, I am able to announce for the majority leader that there will be no further votes today but that there will be three votes at 9:30 tomorrow morning and immediately thereafter.

I will speak to the Robb amendment.

Mr. DURBIN. Will the Senator from Washington be kind enough to yield for a unanimous consent request so we can make a record of the sequence of speakers?

I have been here for a while but other Senators have, too. I want to speak to the Bond amendment and I certainly yield to the chair of the subcommittee for his comments on the Robb amendment.

Is it appropriate to ask unanimous consent that after the Senator from

Washington completes his remarks, I be given no more than 10 minutes to respond to the Robb amendment?

Mr. GORTON. I have no objection.

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

AMENDMENT NO. 1583

Mr. GORTON. Mr. President, with respect to the Robb amendment which would strike section 329 of the bill before the Senate, perhaps the best way to begin my remarks on it is to read that relatively short section.

It reads as follows:

For fiscal year 2000, the Secretary of Agriculture with respect to lands within the National Forest Service and the Secretary of the Interior with respect to lands under the jurisdiction of the Bureau of Land Management, shall use the best available scientific and commercial data in amending or revising resource management plans for offering sales, issuing leases, or otherwise authorizing or undertaking management activities on lands under their respective jurisdictions provided that the Secretaries may at their discretion determine whether any information concerning wildlife resources shall be collected prior to approving any such plan, sale, lease, or other activity and, if so, the type of collection procedures for such information.

It seems to me there are fundamentally three subjects involved in section 329. The first is, of course, that it applies only to fiscal year 2000, the year covered by this appropriations bill. The second subject is that the two Secretaries managing these national lands shall use the best available scientific and commercial data in dealing with the plans they have for those lands. I can't imagine that there is any objection on the part of the proponents of this current amendment to that language. The third subject says that the Secretaries may, at their discretion, determine whether any additional information concerning wildlife resources shall be collected prior to approving these plans.

In other words, section 329 doesn't require these Secretaries to do anything. It simply grants them the discretion to act in a reasonable fashion.

A number of court decisions, pursuant both to the National Forest Management Act and perhaps even more significantly to forest plans already prepared by this Clinton administration and under the supervision of these Secretaries, have stated essentially that before any contract is entered with a private organization for the harvest of timber in national forests or on Bureau of Land Management lands, an extraordinarily expensive wildlife census must be taken, a census at least as detailed as the census of the people of the United States to be taken next year—on reflection, a census much more elaborate than the census of the people of the United States next year, as we are going to be asked to spend about $4 billion to count every person in the United States.

The cost of carrying out the activities required by our courts on our national forests, if we go forward, would be somewhere between $5 billion and perhaps $9 billion. These are matters that deal simply with endangered species. We already have injunctions and orders for the Federal Government with respect to protecting endangered species and not allowing them to be harmed by any of these commercial activities. These are, in effect, censuses of everything that exists in the forest, vertebrate and invertebrate, plant and animal species — the entire works. There are, of course, other decisions on the other side of this issue. Section 329 attempts to deal reasonably with these requirements.

The very groups that brought these actions, various environmental groups, have made two arguments over the course of the last 10 or 12 years that perhaps predominate over the balance of their arguments. The first is that we should stop engaging in timber sales in which the Federal Government—either the Forest Service or the Bureau of Land Management—lose money; that below-cost timber sales are not a wise investment of the resources of the United States of America. At the same time, of course, they advocate positions, and have succeeded in front of some courts with those positions, the net result of which will be that there can never be a timber sale that is not below cost. The cost of any one of these surveys on any public lands will exceed the value of the timber located on the land. That, of course, in turn, is in pursuit of the second goal of many of these environmental organizations, specifically including the Sierra Club, and that goal is that there should be no harvest, no harvest under any circumstances, on any of our public lands of any of our timber resources. That is a formal position of many of the environmental organizations including those that have been plaintiffs in this litigation.

The net result of these decisions is the success of that latter policy. The United States of America is not going to spend $9 billion, or $5 billion, engaging in these particular surveys. It is not a provident expenditure of our money. There is no money in this appropriations bill for such elaborate courses of action under any set of circumstances.

As a former head of the Forest Service under President Clinton, Jack Ward Thomas said: This whole idea is designed to make this survey and management system unworkable. Scientists are not looking for these creatures in the first place. The Clinton forest plan, which has reduced by about 80 percent harvests on the public lands—in the Pacific Northwest, in any event, it already set aside 84 percent of our national forests essentially as wildlife refuges. The other 16 percent has been considered by this administration for a harvest in the Pacific Northwest of about 1 billion board feet a year. This was the President's forest plan, his promise in his campaign in 1992 to the people of the Northwest, somewhere between one-fifth and one-sixth of what was the historic harvest.

The President has not been able to keep that promise, even using his administration's present forest policies. He has not reached that particular goal. The harvest under these decisions will be zero because the cost of preparing the sales will simply be too great.

This is not a policy—the policy of the present enjoined forms of wildlife surveys—that comes from an administration that has been hell-bent for leather to harvest trees in the forests either in the Pacific Northwest or in the Southeast, the location of the 11th Circuit, by any stretch of the imagination. Nor is this discretion being given to officials in the Department of Agriculture and the Department of the Interior who are bound and determined to cut the last tree. This, I want to repeat, is a 1-year provision—that is to say it will apply only through most of the rest of the Clinton administration—granting discretion to the Secretary of the Interior, Mr. Babbitt, and the Secretary of Agriculture, to use their present relatively reasonable systems of determining whether or not some small portions of the 16 percent of the national forests not set aside for wildlife purposes can be the subject of timber harvesting contracts. It does not require the administration to follow exactly the procedures it has been following with the Northwest forest plan and its plans for other forests at all. It simply says if in their discretion they think they have done enough, they can go ahead and meet their own very modest goals of at least providing a modest harvest of our timber in our national forests. That is all. It is neither more nor less than that. It is not a mandate. It is authority to very green, very proenvironmentalist Departments of Agriculture and Interior to engage in activities of this nature.

It is very clear the goal of these lawsuits and the goal of the organizations that have brought these lawsuits is not to get these surveys done. The goal is to see to it that the cost of entering into preparing for any contract for the harvest of timber is so high that none of them will be worth doing. But the effects of those lawsuits, and therefore the effects of this amendment, do not apply only to timber harvesting contracts by any stretch of the imagination. They will apply to any new or different use of any portion of our national forests and of our BLM lands. They will apply equally to the building of campsites or the improvement of campsites or other recreational uses of the forest system itself. As a consequence, the effect of these present lawsuits is to make de facto wilderness areas out of all of our national forest areas and to prohibit any improvement for human recreation, other than that allowed of wilderness areas itself, as well as of any timber harvest. It is an extraordinary set of policies that are essentially advocated by the Robb

amendment, a set of policies based on the proposition from some national environmental organizations that there should be no productive use, no economically productive use, of our national forest system whatsoever.

The section 329, which really should not have been contested at all, is simply to grant this Clinton administration, for 1 year, the right to go ahead with the extremely environmentally sensitive forest plans that it has structured during the course of the last 6 years, not only in the Northwest part of the United States but in the Southeast part of the United States and Texas and in every other place, either BLM lands or Forest Service lands, and allows them to go ahead. If the President does not want them to go ahead, if the policies are those advocated by these organizations in these lawsuits, nothing in this section 329 prohibits them from adopting those policies. But what it does require is that it will require the President to say: Whatever I told the people of the Northwest, whatever I told the people of other parts of the country about a balance, about the proposition that there were certainly some of our national forests that were appropriate for productive use, for the provision of jobs and for the provision of timber resources of the United States, I now have changed my mind. We are not going to do it at all.

If he wants that as a policy, it is not barred by section 329. But he will not be able to hide behind a court decision and say he is trying to do something and trying to abide by a court decision that is impossible, that sets conditions that are impossible economically to meet. We are not going to spend the amount of money necessary to conduct these surveys. The surveys are not needed. They are not worth it. We either choose to deal reasonably with these issues and allow this President and this administration to conduct the modest harvests that they have thought were appropriate, or we are saying we are not going to have any harvest at all, and in all probability we aren't going to have any new recreational activities on our national forests as well.

Simply stated, that is the issue: Do we trust this administration not to go overboard in the nature of harvesting, do we believe this administration to be environmentally oriented or not?

Most of us, and I think I speak for the Presiding Officer as well as myself, do not think these forest plans are appropriately balanced as they are, but they do provide for some economically productive use of our forests, a productive use that is totally barred under these certain court decisions, whether they are correct or not correct, and which we allow the administration to politely and courteously either abide by or say no, we have a better and more balanced way of doing it.

I think it is overwhelmingly appropriate to reject this amendment, to trust this administration not to go overboard in timber harvests by any stretch of the imagination, and to allow it to keep the promises it has made for a period of more than 6 years to the people of timber-dependent communities all over the United States of America.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes.

AMENDMENT NO. 1621

Mr. DURBIN. I thank the Chair for recognition. I misspoke earlier. I wish to speak to the Bond amendment, not the Robb amendment.

The Bond amendment is another one of these legislative riders on spending bills. It is an attempt to change environmental policy with an amendment to the appropriations bill for the Department of the Interior. The reason it is being done this way, of course, is it avoids any committee hearing, any opportunity for any witnesses or public input.

There are seven, eight, or nine different environmental riders that have been attached to this spending bill. The administration has indicated that unless they are removed, there is a strong likelihood that an otherwise good bill will be vetoed by the President because riders, such as the one I am about to address, go way too far.

One might wonder why I am addressing the issue of a national forest in Missouri since I represent the State of Illinois. I am from downstate Illinois. I was born in East St. Louis, and the Ozarks are an important recreational area for everyone who lives in the region. It is not only a regional treasure but a national treasure which has been recognized by a designation as a national forest.

Last year, the attorney general of Missouri, Jay Nixon, joined environmental groups in petitioning the Secretary of the Interior asking him under his authority, under the Federal Land Policy and Management Act, to remove from access to mining 400,000 acres in the Mark Twain National Forest.

Those of us who live in that region know this is an especially popular area of the Ozarks. The watersheds of the Current, Jacks Fork, and Eleven Point Rivers are in this region. Many of my friends and family go to the Ozarks for canoeing. They love it because of its pristine beauty, and they believe the attorney general, Jay Nixon, was correct when he petitioned the Secretary of the Interior to preserve this area and to stop it from being used for lead mining.

This is Federal public land that a private company, a lead mining company, wants to come in and mine for profit. The Interior Department has the authority to say no, it is important environmentally and we should not allow this kind of commercial use. That is what they would do were it not for the amendment being offered by the Senator from Missouri.

The Senator from Missouri, Mr. BOND, wants to remove the authority of the Department of the Interior to protect the Mark Twain National Forest from lead mining. Is this a popular concept? It probably is with some companies. Not only the attorney general of Missouri but the Governor of Missouri has written protesting this action being taken by this Bond amendment.

Governor Mel Carnahan from Jefferson City, MO, has written and said:

> I believe you will agree the watersheds of the Current, Jacks Fork and Eleven Point rivers are among the most beautiful and pristine areas of Missouri. These crystal clear streams are great recreational assets which should be protected for future generations to enjoy.

He goes on to say:

> The environmental risk of lead mining and potential for toxic contamination of these pristine waterways are well understood. The Interior Secretary's authority to protect sensitive public lands should be preserved.

He says to my colleague from Missouri:

> I respectfully request you withdraw your amendment.

But that amendment has not been withdrawn. It will be voted on tomorrow.

I can say further there are groups across Missouri that oppose this invasion of a pristine area, a watershed of the Mark Twain National Forest, for the purpose of lead mining. The St. Louis Post Dispatch, the largest newspaper in the State, has editorialized against this and has said, frankly, that this is an effort to allow this company to come in and mine an area which is of critical importance to the people of Missouri.

The Kansas City Star, an equally influential paper, has come to the same conclusion that the Bond amendment is a mistake, a mistake which threatens the watersheds of the crystal clear streams of the Current, Jacks Fork, and Eleven Point Rivers.

For those who believe this lead mining operation is somehow antiseptic and will not leave a legacy, I say they are wrong, and the scientific studies have proven that. We know what is going to happen if we allow these companies to come in and mine lead in this beautiful area. We know the potential for contaminating the streams. We know the potential for leaving behind the waste from their mining operations.

Some might argue that it is worth it because it creates jobs, and yet study after study reaches the opposite conclusion.

This is primarily a tourist area, a recreational area recognized all around the Midwest. To defile it with lead mining to create a handful of jobs for mining purposes is to jeopardize the attraction of this area for literally thousands of people in the Midwest and across the Nation. That is why it is such a serious mistake. I daresay if this amendment had been offered on an ordinary bill, there would have been a long line of people to come in and testify, not only environmentalists who

oppose the Bond amendment, but certainly those who are in authority in the State of Missouri, Governor Mel Carnahan, Attorney General Jay Nixon, as well as many other groups of ordinary citizens who believe this is a national treasure that should not be defiled so one company can make a profit.

On the spending bill for the Department of the Interior, this is another one of the environmental riders designed to benefit a private interest at the expense of American taxpayers who own this public land, at the expense of families who enjoy this recreational area, at the expense of people who look forward to a weekend on the Current River because of its beauty.

Frankly, this is a big mistake, and I hope the Senator from Missouri will have second thoughts before he calls it up for a vote tomorrow morning. I hope he will listen carefully to the leaders in the State, as well as the environmental groups, who are standing up for one of the most precious resources in Missouri.

I hope he will join them in saying the Mark Twain National Forest and the watershed of these great rivers are worth protecting, worth preserving, and should not be allowed to be invaded by a lead mining company that wants to come in and mine on Federal public lands at the expense of this great national resource.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I rise in opposition to the motion to strike Section 329 of the Interior appropriations bill. This section is necessary to counter an extremely adverse ruling by the Eleventh Circuit Court of Appeals, which has just been described by my colleagues, as well as a preliminary injunction recently handed down by Judge Dwyer in the U.S. District Court.

The case before Judge Dwyer involves the implementation of the Clinton-Gore Northwest Forest Plan, which was unveiled in 1993. At the time, President Clinton said that it ''provides an innovative approach for forest management to protect the environment and to produce a predictable and sustainable level of timber sales.''

The real travesty here is that the supporters of Section 329 are trying to fulfill the commitments made by this Administration in 1993, and we are now doing so over the objection of the Administration.

The Northwest Forest Plan was supposed to be the Clinton Administration's historic compromise between timber harvesting and the environment. For National Forests covered by the Plan, timber harvests were reduced by 80 percent. Apparently, that wasn't enough for those who want no timber harvests, because they are again challenging implementation of the Plan in Court.

While Judge Dwyer issued a preliminary injunction against the sales directly challenged in the case, the effect of his August 2, 1999, ruling is much broader.

The Forest Service and the Bureau of Land Management have made a decision not to award any previously-auctioned sales until the lawsuit is resolved. Further, the agencies do not plan to offer any additional sales until their supplemental EIS on survey and manage is completed and approved.

While the Forest Service claims this will be completed by February of 2000, history tells us that this EIS will be appealed and litigated. In fact, the Forest Service hasn't produced a region-wide EIS for the Northwest for 10 years that hasn't been litigated.

The current or planned sales affected by Judge Dwyer's ruling contain about 500 million board feet of timber. Since there will be no future sales until the EIS is completed, the total volume affected could be 3 times that high.

Further, because many of these sales have already been awarded, if they are enjoined and operations are delayed, or if the government is forced to cancel these sales, the government will be potentially liable for hundreds of millions of dollars in damages.

Because so little volume has been sold to date, and is therefore available to purchasers, the injunction of this volume will lead to immediate mill closures, increasing the government's liability for damages.

The issue in this case involves the Administration's implementation of one part of the Clinton-Gore Forest Plan, concerning surveys for 77 rare species of fungi, lichens, mosses, snails, and slugs, and for a small mammal called the red-tree vole. Six years into the 10-year plan, the agencies still do not know how to conduct surveys for 32 of the rare species.

None of these species is threatened or endangered. Although these surveys are only one piece of the Plan, the consequences of the case are potentially enormous.

The real fallacy of the survey and manage requirement is that we are only going to survey on those lands where ground-disturbing activities—such as recreational improvements and timber sales—are planned. In the National Forests covered by the President's Plan, this amounts to about 12 percent of the total forest base that is still available for multiple use.

This is not going to tell us about the overall health of these species, since we aren't going to be looking for these species in the remaining 88 percent of the land base.

Unfortunately, it could also apply to needed forest restoration activities such as prescribed burns and reforestation on other selected parts of the forests, thereby delaying these activities and increasing their costs.

It is unfortunate that the Clinton-Gore Administration ever included this provision in the Northwest Forest Plan.

But having done so, it is a travesty that the Administration's failure to effectively implement the plan has resulted in another injunction that will further erode our timber communities.

With respect to the Eleventh Circuit Court of Appeals ruling, it requires surveys for all ground-disturbing activities.

This means not only timber sales, but recreation improvements and forest management activities. Some preliminary cost estimates put the nationwide implementation of the Eleventh Circuit court ruling at $9 billion. It is a Trojan horse rolled in by candidate Clinton to destroy an industry.

Therefore, we should make the public policy decision that we will allow forest managers to use the best available commercial data in amending or revising resource management plans, as Section 329 stipulates.

This is the standard for data under the Endangered Species Act.

The language in Section 329 does not preclude the Secretaries of the Interior and Agriculture from gathering additional data.

It simply gives the Secretaries more discretion to meet land management objectives in a timely manner.

Section 329 is designed to give the Clinton administration officials exactly the flexibility in land management that they argued for in court.

I am deeply saddened that in the face of the economic crisis about to be visited on my constituents, the President isn't 100 percent behind retaining this language.

This isn't an agonizing choice for me at all. If I have to choose here between surveying for red tree voles or keeping hundreds of Oregonians employed in family-wage jobs, I will vote for families.

I know that there are those who don't think the language in Section 329 is the best language possible.

I will commit to work with my colleagues and the Administration to see if we can improve this language. But I will strongly oppose efforts to strike it.

I urge anyone who has a National Forest in their State to support retention of Section 329.

If the Eleventh Circuit Court ruling is ever applied nationwide, we will have tied the hands of professional land managers with an expensive, time-consuming and ineffective requirement.

I believe my colleague from Virginia has the best of motives, but I only wish he could go with me to rural Oregon and see the human consequences of what he proposes.

I began my political career in 1992 running for a rural seat in the Oregon State Senate. It was the same election year that now-President Bill Clinton sought the Presidency. I watched as an opponent of his campaign with admiration for the skill with which he came to my State and reached out to those in the rural communities and made some very dramatic promises, some promises which he said would protect

the environment and ensure a sustainable harvest of timber.

He carried my State. He carried your State, Mr. President, with these same promises because a lot of people wanted to believe in him.

I have noted with great interest that recently the President —and I applaud him for this—has gone to rural Appalachia. I don't know whether he went to parts of the State of the Senator from Virginia. I know he went to West Virginia, and he decried poverty levels that are lamentable and awful. But there are parts of my State as a result of his forest policies which are in worse shape than those he visited in Appalachia.

I rise today with a lot of emotion in my heart because I think the truth has not been told and promises have not been carried out.

I have recently come from a town hall meeting in Roseburg, OR, where people are finally looking at oblivion because their jobs are directly dependent upon the sales that have now been enjoined by Judge Dwyer in the district court of the Ninth Circuit.

I hope I can reach the heart of every one of my colleagues because this stuff matters in human terms. I wish they would have a more honest approach and say: We don't want any more harvest of timber; let's shut it all down. At least that would be honest. This isn't.

I wish they could see the kids in John Day, OR, who go to school 4 days a week because they can't afford to open the school for 5. I want my colleagues to understand what they are voting for. If you distill this down, this is about pitting a survey of fungus, snails, and slugs against children and families who need streets and schools.

Now, lest you think the last pine tree in Oregon is about to go down, I am sorry to disabuse you. You can't stop timber from growing in my State. We went to the CRP area not far from where I live. There are wheat fields that formerly were in wheat that were left to go to nature, and there are Ponderosa trees going up everywhere. They are 12 feet high now.

I know what the New York Times says. I know what the Washington Post says. But like some of my colleagues, they have never been to my State. They have never looked into the eyes of the schoolchildren who, frankly, don't have an adequate education because the Federal Government made promises to them and their county officials and their school officials that are being denied to them in a very dishonest and disingenuous way.

I am angry. It is not right. It is not right to go win an election and then supposedly put up a program that is to provide for the environment, to provide a sustainable yield, and then through subterfuge make sure it doesn't happen, when you have a year to go in your term, when you are decrying poverty elsewhere in this country, but you are creating it in my backyard.

I don't think the Senator from Virginia would offer this motion to strike if he could go with me to Roseburg, OR. It has been a long time, has been a lot of heartache, a lot of pain, but it is getting old. It is almost over. Here you and I are defending the President's plan, trying to help him live up to his promises. I want the American people to know that the Clinton-Gore forest plan, at the beginning at least, was honest enough to say: The traditional harvest you have had, we are going to cut it by 80 percent, by 80 percent. The reality is, it is not even 10 percent of what is delivered, and now what we are seeing is there is going to be nothing delivered.

That isn't right. A sustainable yield of 20 percent is all that was promised, and yet even that apparently is another mirage.

Well, I know the President wishes we didn't have to do a rider, but it is the only tool left because we are running out of time. Your proposal is for a year to allow the Federal courts to allow these sales to go forward. Without the Clinton-Gore forest plan, these sales would be fine; these meet the Endangered Species Act, but somehow in the creation of this plan, they have put in a survey system that isn't economical. It isn't going to happen. It isn't even necessary. It is a fraud. It is a way to undermine their own promises.

Well, history tells us this is not going to happen now. I regret to tell the people of rural Oregon that the Clinton forest plan is a failure to them.

Another irony. I heard my colleague from Virginia say he read a letter from the Forest Service about their newfound position on this issue. Why didn't they argue that in court? If it was an argument to be made a month ago, why isn't it still a good argument. They have reversed course. Why? Is it only about politics? I think people are sick of that. I think people are ready to be told the truth, and they thought they had been told the truth by the President, at least when it came to his forest plan. I regret to tell them that apparently they have not been.

What is at stake? In Judge Dwyer's ruling, about 500 million board feet of timber. By the way, to my colleagues on the other side, if you think by killing the forest industry in this country you are somehow saving the environment, you are the best friend the Canadians and the New Zealanders have ever had because the U.S. demand and use of timber is not going down. It is going up. We have just exported those jobs. So we pat ourselves on the back that we somehow have taken care of our forests, even though it is growing at record rates and subject to catastrophic fire. Even though we pat ourselves on the back, we are pillaging our neighbors' land.

I am simply saying, the promise of the President to have a sustainable harvest and a good environment are possible, but it isn't possible with this. We are trying to help the President make it possible.

I am saying what is being asked for by the courts now, as required by the Clinton-Gore forest plan, is a survey for 77 rare species of fungi, lichens, mosses, snails, slugs, and for a small mammal called the red tree vole. Well, the agencies don't know how to conduct these things. They don't even know some of these species. The amount of land that is at issue is 12 percent of 100 percent of the land, so 88 percent of the land is not going to be surveyed, only the area where they are digging around. No one contends that any of these things are endangered at all. What is endangered is rural people, creating a new Appalachia with chronic poverty. We are doing it in my State while he decries it in his State. That isn't right, not when they have been promised something better.

I conclude my remarks by pleading with my colleagues not to put in an artificial requirement that we will not fund, which is not necessary and which can be adequately provided for, by the way you described it, by giving to the Secretaries of the Interior and Agriculture the power to do what they already do under the Endangered Species Act, by giving them that power and allowing these things to go forward and keeping some promises. Why don't we keep some promises around here?

I want my colleagues to know this is about a survey versus families. It is about snails and slugs versus streets and schools. I ask you to oppose the motion to strike this amendment. What is being done here is wrong. It has human consequences, and we in this Senate ought to be bigger than that.

Mr. President, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I listened with interest to the impassioned plea of my friend from Oregon. Last week, we sold a lumber mill in Montana. Darby Lumber went down because they could not get logs. Mills are hauling logs in from Canada, 500 miles, and it is like my friend from Oregon said—we are decimating our neighbors' lands because we have not had the nerve to be honest with the American people.

To give you an idea, up in the northwestern part of Montana, we are growing about 120 million board feet of lumber a year. The Forest Service makes plans to harvest about 19 million board feet. The truth is, America, we will be lucky if we harvest 6 million board feet.

Opposition to section 329 flatly contradicts previous positions taken by the environmental community and this administration on the best methods for protecting wildlife. Section 329 would restore to the administration the authority to plan and account for wildlife protection by surveying habitat—a method employed for over two decades and that has been approved by seven Federal courts, including three circuit

courts of appeal. The recent Eleventh Circuit decision contradicted this consensus judicial opinion and would require the agency to provide protection to wildlife by counting—not once but twice—the number of members of each of 20 to 40 management indicator and sensitive species before undertaking any ground-disturbing activities in our national forests—be it timber harvesting, be it watershed restoration, be it trail building, be it maintenance, or be it for the prevention of fire. I guess this is one reason you can't run a pretty good ranch or a pretty good farm that depends on renewable resources by a committee, for the difference of opinion on how we should do things. If left to that, we would never get in a crop. America would never have a substantial, sustaining supply of food.

The emphasis the Forest Service has placed on habitat availability instead of counting the members of individual species is exactly the policy advocated by the environmental community. I wonder, at this time when they change the policy, what is the motive here? What is the motive? Is it us against them? I don't think so. I don't know of anybody who stands in this body to decimate the environment. But I wonder, of all the fires that are burning in the West today, if a little management on fuel buildup could not have prevented some of those. But somebody thought a mouse was too important that we can't disturb the land, and it burns.

Virtually every environmental organization has insisted the law be reformed to address habitat protection and away from narrow species-by-species focus. Indeed, the provision in the Endangered Species Act that the environmentalists most frequently quote in both the Senate and the House, and in Federal courtrooms across the country, is the first phrase in the statement of purpose in section 2(b):

> The purposes of this Act are to provide a means whereby ecosystems upon which endangered species and threatened species depend may be preserved.

Now, we can argue on philosophy, but I think we are arguing on politics, and what is at stake is families. Also, what is at stake is the forest itself. I invite the Senator from Virginia to go with me this weekend. I will take him up in the Yak, where we have infestation of the pine beetle, dying trees, and a forest that would just shock him. It would absolutely shock him to his shoes. He would be devastated, looking at that forest. Yet the environmental community has made up its mind that we are not going to harvest; we are going to let it burn. I don't think that is why the Senator from Virginia wore the uniform as long as he did, to protect that kind of mismanagement of the country he so loves, or even the people he so loves.

The administration has been even more adamant in insisting on a habitat approach to wildlife protection. That is what they told us when they first came to office. It has championed two land management concepts—ecosystem management and biological diversity protection—that rely entirely on methodologies which concentrate on habitat rather than individual species. Certainly, ecosystem management is a fancy way of saying habitat management. I don't have very many of those fancy words; I have to write them down.

But it is funny what you can see from horseback. Sometimes you can see over tall mountains and tall buildings and over very high-minded ideas that don't work. They have never worked; they never will work. So, too, when biological diversity is considered, conservation biologists insist on treating habitat as the source of wildlife and plant diversity and resist focusing on individual species. They have always done that.

We have embraced that philosophy and that approach. That means we can do something about managing our land in the highest standard of environmental protection and still harvest the crop with which the God above has so blessed this country.

Finally, the capstone of this administration's wildlife policy is the habitat conservation planning and incidental take, permitting it is conducting with private landowners helping them provide habitat for endangered species.

How can a man stand here and even talk about endangered species when you have only one crop that you get paid once a year for and you see wolves killing right out of your own pasture not 300 feet away from where you live? And there is not a thing you can do about it.

Does anyone want to go out and face that man and tell him and his family, well, we have some folks that like to hear that yipping and howling? After they get done with their kill, they will go across the creek, which is only about 400 yards, and they will lay there and they will rest until they get hungry again. That is almost unbelievable to me.

That is what we are talking about here. We are talking about something that doesn't work. We are talking about people who are very smart and very intelligent but have little or no wisdom—higher than thee, elitist—who prevent men and women who were born of the soil, born of the land, worked the land, and will die and go back to the land. I guess one could say we are all just circling the brink because that is where we are going to go. Maybe you never know how that is going to turn out.

Despite the solid momentum away from attention to single species and toward consideration of habitats, we now see the very advocates of this approach criticizing it in their attacks on section 329. I wonder how they will feel when they are successful in stripping 329 from the bill only to discover that the U.S. Forest Service—one of the first agencies to adopt a habitat approach to wildlife protection—must now abandon it to follow the expensive—in fact, it is too expensive. We know that the money will never be appropriated. So it will not be done. It is an outdated process of counting individual members of one species after another, like I said, not once but twice. I am just asking that we have an attack of common sense—just common sense, everyday common sense that the rest of America uses every day just to subsist.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I come to the floor to visit with my colleague from Virginia who has offered an amendment to strike section 329 of the Interior appropriations bill. I am pleased that he is on the floor. I am extremely pleased that he listened with great attention to the Senator from Oregon and the Senator from Montana, and that he will listen to this Senator from Idaho whose State is 63 percent owned by the Federal Government and whose policy as to how those lands are managed is determined on the floor of the Senate by this Senator, the Senator from Virginia, and others.

I listened to the Senator this afternoon as he offered his amendment to strike section 329. I must tell you that I listened with a degree of frustration, certainly in no disrespect to the Senator, but to what I sensed was a lack of understanding of what has brought us to this issue and why the Appropriations Committee found it necessary at this moment in time to speak out and to clarify public policy that the Senator from Virginia is trying to undo.

The Senator from Montana, the Senator from Oregon, myself, and others from large public land and forest States have grown tremendously frustrated not by just this administration but by public policy that puts all of us at odds. That arguably does not provide the kind of environmental protection many of us would like and that would allow the balance between environmental protection and under that important umbrella the effective use or utilization of our resources like timber.

So we had a judge in the Eleventh Circuit who probably really has never been West, nor does he understand the West, make a ruling on a ground-disturbing activity of the Forest Service on its lands and say that you haven't studied thoroughly enough how that activity contributes to the demise of a plant, a fungus, a slug, a snail, or an exotic animal. This judge went against decades of science, and even nine court decisions that had largely said the Forest Service was doing an adequate job in its overview of the endangered species responsibility under the Endangered Species Act through an environmental impact study.

The Senator from Oregon was talking about the judge's decision in the Eleventh Circuit being picked up by the

judge in the Ninth Circuit, and without any real consideration, just arbitrarily spreading across the pages of his decision: Well, if it is good enough in the Eleventh Circuit, it is good enough in the Ninth.

Ironically, in the Ninth Circuit, what the Senator from Oregon was talking about was the most comprehensive, above the level of science that has been practiced, reviewed, and mandated under the President's own forest plan. There was a comprehensive effort between the Forest Service and U.S. Fish and Wildlife Service and National Marine Fisheries that all aspects of the disturbance would be studied before these timber sales or other activities would go on.

As a result of that, I think it is tremendously important for the Senator from Virginia to understand—I serve on the Appropriations Committee—we did not attempt to do anything extraordinary. We just tried to say in public policy that what the judge in the Eleventh Circuit had done, what the judge in the Ninth Circuit was doing, and what a judge in Texas has already picked up on is really outside science.

A committee of scientists empowered by this Secretary of Agriculture, Dan Glickman, just this last year reported back to the Department of Agriculture and to the U.S. Forest Service that the science they were using that the judge in the Eleventh Circuit knocked down was the right science—that you use indicator species, that you didn't need to get out on the ground and count every plant, or animal, or microorganism.

It was unnecessary to do this to determine the kind of impact that a ''Ground disturbing activity'' would have on the ground. But it was very important for the state of the science involved to use the indicator species concept that had been used and upheld in nine different court decisions as the right approach.

I guess what I am saying to the Senator from Virginia tonight is how long do we fight? How long do we see this kind of conflict that stops all kinds of activity before the Senator from Virginia is willing to stand up with the Senator from Idaho and do what is our responsibility, and that is crafting sound public policy that disallows the courts and the judges from being the public land managers of our States.

Yet the Senator from Virginia tonight says: I want the judge to decide.

But he didn't really quite say it that way, and it would be unfair. What he is saying is, let the process continue to go forward.

I am extremely disappointed that the chief of the Forest Service is not in the gallery tonight saying to the Senator from Virginia: You shouldn't be doing this.

What the Senator from Washington, Mr. GORTON, put in this legislation allows the Forest Service to continue to do what the courts and a team of scientists said is the right thing to do: That is, when you are doing these surveys use the appropriate science, the indicator species, in making the determination as to how to mitigate for a surface-disturbing activity. However, the chief of the Forest Service isn't here tonight nor was he willing to stand up and speak out loudly.

What this administration I think is saying, and I trust that it has to be as reasonably disturbing to the Senator from Virginia as it is to this Senator from Idaho, is continue to work through the court process. We think we can work this out.

Ironically enough, their working it out means they have already lost 3 lawsuits, they have already lost 3 times. They are still saying: Trust us, we know how to work it out.

Even the forest plan that the President himself staked his public land reputation on is in the tank out in Oregon, Washington and northern California. Thousands of people will be out of work this winter because this President wouldn't stand up and ask his chief of the Forest Service to fight for what he originally said he thought was right.

He says: Let us work through the court process.

How long will it take? We don't know. A year, until after the next election? Possibly.

What is most important for the Senator from Virginia to understand is that what is in 329 is not outside the law. Let me read the language:

> The Bureau of Land Management and U.S. Forest Service shall use the best available science and commercial data in amending and revising resource management plans for and offering sales, issue leases or otherwise authorizing or undertaking management activities on, land under their respective jurisdiction.

Where does the language come from? Not out of the mind of the Senator from Washington who is the chairman of the Interior appropriations subcommittee. It comes out of endangered species law. It comes out of the act itself. It is the operative language that drives the Endangered Species Act. It is not new language. It is not new law.

Then we go on to say,

> Provided that the Secretaries may at their discretion determine whether any additional information concerning wildlife resources shall be collected prior to approving any such plan, sales, lease or activities.

Full discretion to the secretary, to the managing agency. Not new law. Empowering them to do the right thing with their scientists and their expertise. That is what we are doing. We are empowering Bill Clinton. We are empowering Mike Dombeck, the chief of the Forest Service. Yet they are saying, just work this out through the courts. What if they lose the fourth time and it is a year from now and nobody is in the mills and nobody is working and thousands of people are out of work in Oregon, Washington and northern California?

Or should we talk for just a few moments about the activities on the George Washington and the Jefferson National Forests in the home State of the Senator from Virginia? Not much timbering in his home State, but there is a lot of ''people'' activity, a lot of trails, a lot of management and road building. Flood control in the Cascade National Recreation Area, a contract involved with repair and construction of four bridges and relocation of portions of the trail and stone structures and retaining walls. All of it is surface-disturbing activity; all of it because someone didn't like it, a lawsuit is filed, and a judge stops it because the Forest Service doesn't know how to do these kind of things.

No, not at all. Because the Forest Service didn't examine whether repairing an old trail wall disturbs a lichen or a moss on the wall of stone that was originally put there by man himself. That doesn't make much sense, does it? But that is exactly what striking section 329 will do.

I wish the Senator could stand up and say let's abide by science, let's not play this out in the courts anymore. Let's empower the chief of the Forest Service and the assistant secretary of agriculture and the President himself. I don't find myself on the floor of the United States very often defending this President. I don't think he has had good public land policy. But in one area where he really tried, now he himself will not even defend his effort. His chief of the Forest Service is trying to avoid the pressure by environmental groups who see this exactly the way the Senator from Oregon spoke to it this evening: A way to turn the forest off.

They will not only stop logging, they will turn your forests off. They will attack any surface-disturbing activity, even if it is a trail, a trail head, or a campground that may facilitate the very citizens of the State of Virginia who enjoy their public lands and their two national forests.

As the Senator from Virginia knows, in the mid-1970s we passed the National Forest Management Act. That was to direct the most comprehensive review of every forest in the United States. From that was to come a management plan and a way to execute that plan. The Senator from Virginia knows as do I that he and I and the taxpayers spent nearly a quarter of a billion dollars developing those plans. It was the most comprehensive land-planning exercise in the history of the world. We developed computer models. We looked at every aspect, every watershed, all of the character and the nature of this public land. It was right that we did so. Our forests now operate under those plans. Every activity was viewed through a grid that determines whether they are endangering a species of any kind. That is what I spoke to a few moments ago. However, that whole effort cost a quarter of a billion dollars, or near that.

What the amendment of the Senator would do, and if the courts were to win—not the policy makers that we

were elected to be, but a judge, an appointed judge who does not know one thing about the forests in Oregon or Idaho because he is reviewing an activity in a forest in the State of Georgia, he is saying get out there on your hands and knees with as many scientists as you can muster and count and look at every little tidbit.

The Senator from Oregon went through that litany of mosses, snails and critters tonight. It is estimated, just estimated, that to do that kind of an evaluation on an acre-by-acre basis across the landscape of the public forests of our country would cost 5, 8, or $9 billion dollars. The Senator from Virginia knows, as do I, we will not appropriate that money. That kind of money doesn't exist and that kind of money should never be spent on this kind of activity. The scientists who are good scientists—not judges, and not environmentalists who want to see the world shut down—are saying that the standards and the tests and the indicator species and the work that is being done today is thorough, adequate and responsible. Yet the amendment of the Senator denies that because that is the exact language that was put in this section of the appropriations bill.

Why is it important we do it now? We heard from the Senator from Oregon. I have been to John Day and I have been to Roseburg. Those are mill towns. Those are little communities with millions of acres of public timber land around them. The people who live there make their livelihood from logging. It has changed some because logging has diminished dramatically in those areas.

But what the action of the Senator from Virginia is doing, if he is successful, is it turns off those timber sales, nearly 500 million board feet of timber that would keep those mills operating through the winter and into the spring. Because no longer do we operate on a 3-year pipeline, they call it, where you have timber adequate in the pipeline for a 3-year period. That ended with the Clinton administration. Now we are on nearly a timber sale by timber sale basis.

Yet, remember the reduction in timber sales that the Senator from Oregon talked about? We are not talking about cutting anywhere near previous levels. We have an 80 percent lower cut in 8 years. And even that which this President said was adequate, right, responsible and environmentally sound, a judge now arbitrarily has taken away. So that is why we are on the floor this evening. This is one of the most time sensitive amendments, directly relating to jobs and people's well-being, that is in this legislation.

Let me close by one other analysis. I was in one of my communities, Grangeville, Idaho County, Idaho, a big county right in the heart of my State, with 70-plus percent, 80 percent public lands. In one of those communities they started their school year with no hot lunch program. Why? Because a huge portion of their budget came from timber sales, the Twenty-Five Percent Fund. The Senator may be familiar with it. For every tree that is cut, the counties and the schools got 25 percent of the stumpage fee. We are not cutting trees in that area anymore, even though there are millions of acres of trees there. As a result, the school had to decide whether to have an athletic program or hot lunch program for the kids. They are struggling, taking donations from the community to have hot lunches. I don't know whether that's happening anywhere in Virginia, taking donations to have a hot lunch program to feed kids. But the Senator's amendment has an impact on that kind of caring event.

I wanted to personalize this because I don't think, when the amendment to strike came to the floor, there was an understanding of the immediacy of the impact of this kind of decision. It was just some neat environmental vote that we would have because that is what a lot of the environmental community wants. This is a test vote of some kind.

It is not a test vote on anything other than a political idea. It does not bear out consistently good policy because we have good policy in this area. We have scientists from around the world saying we do it better than anyplace else. Yet a judge simply said no, you don't. You don't do it the way I think it should be done, and therefore I want you to do it differently.

That is the crux of the debate. There are all kinds of opinions around it. But I must say, to an administration that has three times lost this battle in court, for them to step up now and say, trust us, let's work it out, without an alternative plan, with the idea we will work it out and get to the point and they lose another lawsuit and we are 12 months down the road and the people in Roseburg or John Day are not back to work?

It is not impacting my State at this moment. But here is what happens in my State. It is like a West Virginia-Virginia relationship. If they are not cutting trees in Oregon, even under the President's plan, and these mills are deprived of trees and people are out of work, that mill operator comes into Idaho looking for timber sales. He bids up the price well beyond where it ought to be, takes a timber sale out of Idaho, puts those logs on a truck and heads them west over the Cascades into Oregon just to keep his people working.

So my mill in Orofino, or a place like that, is with less timber at a time when we are hardly cutting any timber. And we have simply pitted one against another. That is not good policy either. But ultimately that is what can happen and that is what will happen in my State, even though this judge's decision at this moment does not impact us.

But failing Congress' ability to establish and clarify this policy issue, some group will file a lawsuit and argue on the premise of the judge from the eleventh and the judge from the ninth circuit, that those kinds of effective studies were not done on a given disturbing activity in my State. Then it will apply further into my State.

Those are the issues. I hope our colleagues are listening tonight. I understand we will debate this tomorrow some, but we will vote on it.

To reiterate, I oppose the amendment by Senator ROBB that would remove Section 329 of the Interior Appropriations bill. This effort is misguided and I strongly urge my colleagues to understand the need for this Section if our national forests are going to continue to function. The Section simply clarifies that despite recent circuit and district court decisions, the Secretaries of Agriculture and Interior maintain the discretion to implement current regulations as they have been doing for nearly 2 decades.

During the past two decades, nine separate court decisions have backed the way the Forest Service has been conducting their surveying populations by inventorying habitat and analyzing existing population data.

On February 18, 1999, the Eleventh Circuit Court of Appeals determined that the Forest Service must conduct forest-wide wildlife population surveys on all proposed, endangered, threatened, sensitive, and management indicator species in order to prepare or revise national forest plans and on all ''ground disturbing activity''—not just timber sales. Never before has such an extensive, and frankly impossible, standard been set by the courts.

Another ruling on August 2, 1999, in Federal District Court in Seattle, on a similar case, jeopardizes the President's Northwest Forest Plan, and has already begun to stop most if not all ground disturbing activity in the Northwest.

These rulings result in paralysis by analysis. It would require the Forest Service to examine every square inch of the project area and count every animal and plant—even every insect—before it approved any activity.

The cost to carry out such extensive studies—studies which have never been required before—could be approximately 9 billion dollars. How do we do this? Because the Forest Service does contract for population inventorying on occasion. A population trend survey requires two studies. If we extrapolate from the $8,000 cost of one plant inventory, we reach $38.1 million for the 864,000 acres within the Chattahoochee National Forest where this decision originated. If applied to the 188-million acre national forest system, the cost reaches $8.3 billion.

We appropriate roughly $70 million for forest inventory and monitoring. Are we prepared to shift the $9 billion necessary for this new standard? If not, this recent interpretation forces the Forest Service to shut down until the Agency can apply the new standard.

The purpose of Section 329 is not to change the court decisions or set a

new, lower standard. It is simply to clarify that the existing regulation gives the discretion to the Forest Service and the BLM when determining what kind of surveys are needed when management activities are being considered.

Some of my colleagues would argue that this is an issue for the authorizing committees to deal with. I agree. This is an issue that absolutely should be dealt with by those committees. They need to determine whether the agencies have been correctly interpreting their regulation for the past 17 years. They need to determine whether it is sufficient to inventory habitat, rely on existing population, consult with state and federal agencies and conduct population inventories only for specific reasons.

But I argue that the appropriations process should not be made to bear the burden while the authorizing committees study the question. All section 329 does is to preserve, for the next year, the status quo as it existed on April 8, 1999. Otherwise, our already limited resources will be further overwhelmed if we are required to fund this new standard.

I urge you to oppose this amendment and support sensible management.

We are appropriating roughly $70 million for forest inventory monitoring this year. There is only $70 million in the Federal budget. Yet it is now estimated that this will literally cost us billions of dollars if the Senator from Virginia and the Senator from Idaho cannot stand up and look some of our radical friends in the eye and say: That is not good policy. You are not the policymaker and your lawsuits and your judges are not either. We are. We were elected to craft policy. The Senator from Virginia and I are responsible only if we take that kind of leadership position.

That is the kind of leadership position that Senator GORTON took in the appropriations bill. He did not go outside the law and he did not go outside practice. He mandated and requested the Forest Service of the United States act responsibly, under the Endangered Species Act, and gave them the guidelines to do so. That is what section 329 does.

That is leadership. Falling back into the arms of the judge and simply seeking the will of the courts is not. I hope my colleagues would join with me tomorrow and oppose a motion to strike.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, first let me address my colleague and friend from Idaho, who is one of the four Senators who have spoken against this amendment on the floor and tell him first of all I appreciate the sincerity of his remarks and the concern he shows, and his colleagues have shown, for those who face economic hardship because of any decision that might be impacted by the Federal Government. I would have to say in particular, with respect to the distinguished Senator from Oregon talking about some of the people in communities which he has visited, the same phenomena has occurred to all of us at one time or another. All of us truly feel the intense pain that those families suffer. In many cases that suffering comes to them because of activities that have been taken in terms of Federal trade policy, sometimes because of innovation in various manufacturing techniques, modernization of equipment—lots of reasons that long and established communities are adversely affected. Any of us who do not relate to that and have a sense of compassion—we may disagree on a particular item at a particular time, about what is the best way to approach a particular challenge that we face, but I don't think any of us lack compassion for those families or want to be in a position where we are doing anything that hurts more than helps. In this particular instance, I would have to say one of the comments made by my friend from Oregon was ''let science decide.'' That is really what is at issue here.

We see the issue differently. But in this particular case, science has determined at this point, and the board of scientists the distinguished Senator referred to has suggested, that there are means of establishing the health of the forest that will require indicator species measurement. None of the decisions require counting all species, every single species. In fact, the only species I am aware of that is measured in terms of every single member of the species is the Condor count. That is a truly endangered species. I know of no other. There may be.

In any event, we are talking about doing something. The reason these cases were decided the way they were and other cases were decided differently is because the rules that had been established, the plan that had been established by the Forest Service, and that they had agreed to follow, wasn't followed.

The Northwest forest plan came about in very large part because of the timber wars, the very difficult situation that every Member of the Northwest delegation of this body remembers.

As a result of the compromise that was entered into, opened up some logging—I recognize the 80-percent factor the Senator from Idaho and others have used—at least some logging was conducted and the gridlock that had existed prior to that time did not continue. They have been operating under this provision, the Northwest Forest Plan since that time.

I have heard repeated references to costs that are clearly beyond anything anyone associated with the Forest Service, BLM, the Interior Department, or the Agriculture Department would consider possible, or can even understand frankly, because we have claims of $5 billion to $9 billion, and no one in the administration is talking about anything that would cost anything in that range.

The essence of the court decisions were on a very limited scope. The court said, if you tell us that this is the plan you want to put into effect, that you agree to put into effect, then the least you ought to do is try to follow that plan.

The problem in the Eleventh Circuit, if my memory serves me correctly, was with 32 of the 37 species, absolutely nothing was done. The court is in the position of saying, we will give great deference to the Forest Service, to other administrative agencies, to regulators, to anyone else who is involved, but you cannot simply do nothing and expect us to simply say it is OK not to pay attention to your own rules and regulations.

That is what both of the cases are about, and that is what distinguishes the cases which trouble the Senators from the Northwest from the other cases.

In the other cases, the judge was able to rule in such a way that the logging could continue, whatever land disturbing operations could continue. We are not talking about a situation where every single species, some of which none of us could identify if we were given a chart of all the species involved because they are so rare, had to be counted. That is what indicator species are for, to simply be able to track in some limited way some species as an indication of how all the species are faring under various changes that might affect those particular forests or those particular areas. That is really all we are saying.

In this particular case, the Forest Service, BLM, the Interior Department, the Department of Agriculture, and the heads of those agencies have said that section 329 is likely to cost a great deal more money, is not likely to do exactly what they purport to address but have exactly the opposite effect.

In this particular case, the Agriculture Department, the Interior Department, the BLM, and the Forest Service make it very clear that what is proposed is more likely to be counterproductive, but that is beside the point. They are acknowledging that a standard has been recognized by the Eleventh Circuit case and that they did not meet that standard. They believe they should be held to the standard, and that is what they are prepared to do. That is what adaptive management practice is all about. This is not the kind of absolute foreclosure that my friends on the other side have represented it as.

Plans are underway right now to address the challenges that were put to the management agencies by both decisions. I submit the concern for the Ninth Circuit case is considerably greater on the part of my friends from the northwestern part of the United States than the Eleventh Circuit.

Nonetheless, the decisions simply said to the Federal agency involved: If you say these are the rules that you are going to follow and you agree these are the rules that should be followed, and the scientific community has said this is the way we can make the rational assessments and achieve the kind of balance that we are looking for, then you ought to do that.

I share the frustration. There is always an enormous frustration factor when you are dealing with a situation that seems to be beyond the control of those who are most affected by it. I am particularly sensitive to the State of Idaho where so much of the land is owned by the Federal Government, owned by the people of the United States, and that makes this forum for decisionmaking so much more important, in many cases, than it is for other States where the percentage of our total land, the percentage of our total economic activity is less affected by decisions that are made right in this particular Chamber.

The bottom line again is simply if the agency agrees to a particular course of action, if the action is rational, and reflects the fact we are not using the forest just as a place where logging can be carried out, but where recreational and other environmental elements are valued, then that one activity must be balanced against the others.

In this particular case, a rational approach has been devised. It is flexible. It is being addressed at this particular moment. An additional environmental impact statement is in the process of preparation.

The only real change that will come about from where the law is now, the only real change is whether or not the public ought to have an opportunity to participate and comment on the process. That is the only real change that would be brought about by this particular rider, other than attempting to legislate on an appropriations bill, thus bypassing the administration, regardless of what party is in power, and bypassing the legislative process, bypassing the authorizing committee to which these arguments could be addressed.

I am not at all insensitive to the concerns that have been raised by my colleagues who represent this particular area. Indeed, I want to work with them and the Forest Service, the BLM, the Interior Department, and the Agriculture Department to see if we cannot find ways to address the specific problems that those communities, particularly those that have no other opportunity for economic activity, are faced with at this particular time.

The way to do it is not to put an environmental rider on an Interior appropriations bill which bypasses the Federal administrative process, bypasses the legislative process, and simply attempts to write into law something that has not been approved by either section and which is, indeed, actively opposed by representatives for both.

Mr. President, I see no one else who I believe wishes to address this particular matter. We will have an opportunity to provide closing arguments tomorrow before this is taken up.

I do not believe we have asked for the yeas and nays. I request the yeas and nays.

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

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ENZI. Mr. President, I rise in opposition to this amendment and to express my concerns regarding the increased bureaucratic burden it would place on the backs of America's rural communities. This amendment would require the Forest Service to conduct forest-wide wildlife population surveys on all proposed, endangered, threatened, sensitive, and management indicator species in order to prepare or revise national forest plans, and in every area of each national forest that would be disturbed by a timber sale or any other management activity. Such a requirement would put a virtual freeze on all Forest Service activities and would serve as a death knell for rural economies.

For more than fifteen years, the Federal Government has been at war over how to manage our Western lands. The result has been 15 years of gridlock that not only locks up public lands and threatens the health of our national forests, but it also locks up rural economies which have suffered from dramatic economic disruption.

Economies in rural communities are not like economies in more urban settings. Rural economies cannot make the kind of rapid adjustments that are available to more populated areas. When a timber company of about 50 people goes out of business in rural America, even though its number of employees may seem small under urban standards, those fifty employees can make up 20 to 30 percent or more of the local work force.

Just as important, however, is the impact that this kind of amendment will have on the future of forest health. The biggest threat facing America's forests today is the overriding threat of destruction by catastrophic wildfire. This threat is particularly strong in the West where our nation receives very little annual rainfall.

Without a proactive forest health program that thins out the ever increasing vegetation from our forest floors, we are only setting ourselves up for disaster.

Haven't we learned anything from the debate over the Wilson Bridge? When local communities decided to improve the Wilson Bridge along the infamous Washington Beltway they learned near the end of their process that they had to go back and complete a full blown EIS. Because of this regulatory requirement, the Wilson Bridge now will not be built for another two or three years. In the meantime, traffic will continue to back up and it will take longer and longer to navigate around our nation's capitol. This kind of regulatory gridlock never used to happen on the East Coast, but it has been a common occurrence in the West. I can guarantee you, however, that these kinds of regulatory activities will continue until we receive regulatory relief and learn that increased regulation does not necessarily mean we are protecting the environment.

If we are seriously going to protect our environment, we need less regulation and more proactive programs particularly on our national forests. The worst thing we could do, then, is add to the gridlock and adopt this kind of amendment.

Mr. CLELAND. Mr. President, I rise today to voice my support for and cosponsorship of Senator ROBB'S amendment to remove the Section 329 rider from the Interior Appropriations bill. This rider would undermine sound science in wildlife management in my state and across the nation. It would suspend U.S. Forest Service and Bureau of Land Management requirements to research and monitor certain wildlife populations, integral requirements that the agencies themselves adopted as early as 1982. I strongly support this amendment and believe that we should remove this rider.

Section 329 attempts to overturn a recent court case, Sierra Club versus Martin, issued by the 11th Circuit, which confirmed the agencies' duties to monitor certain wildlife species in order to make credible and well-informed management decisions. The 11th District Court unanimously ruled that the Forest Service was not properly performing its responsibilities to inventory ''rare'' species in the Chattahoochee and Oconee National Forests as mandated by its own Forest Management Plan. The court's decision does not expand monitoring requirements, but merely ruled that the absolute failure to collect any data or implement any monitoring of indicator and sensitive species was not legal.

Monitoring the health of ''indicator'' and ''sensitive'' species is both sound science and good wildlife management. Indicator species act as proxies for other wildlife in the forest. That is why monitoring of indicator species was included in the 1982 implementing regulations of the National Forest Management Act and is included as an integral part of forest management plans adopted by the agencies. If we ignore what is happening to these ''indicators,'' we are ignoring the impacts on the whole forest. Collecting new and important data is the only way to ensure that our land mangers are using the most up-to-date and accurate scientific information. By limiting decisions to ''available'' science as this rider would dictate, Section 329 turns a blind eye to the information we need to make the best possible management decisions.

I understand that some argue the best ''available'' definition is the same

rigid standard set forth by the Endangered Species Act. While true, this is a complete misrepresentation of the law's intent. The intent of best ''available'' information for Endangered Species is to encourage swift listings of animals so that we avoid risking the extinction of such animals. Associating this definition with determining the status of animals in a National Forest section scheduled for timber harvesting runs completely contrary to the intent of the Endangered Species Act version which is to protect species. Applying this definition when making forest management decisions risks the habitat and future of both ''sensitive'' and ''endangered'' species by not having accurate and current data upon which to make these decisions. Each forest manager will be without guidance and our national lands will be managed according to the whims of individuals rather than the interests of the public.

In my own state of Georgia, National Forests provide a refuge for black bear, migratory songbirds, native brook trout, and an incredible diversity of aquatic species. Some of these species are already listed under the federal Endangered Species Act. Many more may be listed in the future if we ignore the warning signs. The smart, economical approach is to monitor and conserve ''sensitive'' species before they reach a crisis state and are listed on the endangered species list. By avoiding such listings, we have the maximum amount of flexibility and the costs of conservation are low. Unfortunately, Section 329 discourages land managers from doing just that.

I understand that, in reaction to the court decision, the regional forester for the Chattahoochee and Oconee National Forests is amending its forest management plan and this rider completely short circuits that process. Amending the Forest Management Plan is the proper method for handling these kinds of issues. It allows for Public Comment and Participation and also allows for Sound Science to be utilized and reviewed. The Forest Service has stated that this rider, ''Overrides a Federal Court Ruling, agency regulations, and resource management plans that require the Forest Service and Bureau of Land Management to obtain and use current and appropriate information for wildlife and other resources before conducting planning and management activities.'' Note the language that resource management plans require the agencies to obtain and use current and appropriate information. It does not say, see what data you can scrounge up and use that.

Considering the Senate's recent debate on Rule 16, it is clear that this rider is attempting to legislate on an Appropriations bill. I believe that contentious authorizing language such as this should have the benefit of a full review by the authorizing Committee which has jurisdiction over these matters. These important decisions should not be done through an environmental rider on an appropriations bill.

In closing, it is clear that the Forest Service's own National Forest Management Act regulations require monitoring of certain, but not all, resident wildlife to ensure that land managers are using the most up-to-date and accurate scientific information in their decisions. Now, I understand that every single species of plant and animal cannot and should not be documented in these inventories. However, I believe that in order to protect species from becoming threatened and endangered, the Forest Service must employ effective measuring techniques which will provide accurate estimates. These estimates are critical to making sound management decision. I believe that this rider short circuits both the Senate's ability to provide proper oversight and the Forest Service's process for amending forest management plans.

I urge my colleagues to remove this rider and vote in favor of this amendment. I thank my colleagues and yield the floor.

Mr. ROBB. Mr. President, seeing my friend from Texas on the floor, knowing that she has plans to address another of the pending amendments, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

PRIVILEGE OF THE FLOOR

Mrs. HUTCHISON. I do intend to address the issue of my amendment, but first I ask unanimous consent that privileges of the floor be granted to William Eby during the pendency of the Interior appropriations bill.

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

AMENDMENT NO. 1603

Mrs. HUTCHISON. Mr. President, as was unanimously consented to earlier in the evening, Senator GORTON requested that all of the arguments on the Hutchison amendment be put together. So I ask unanimous consent that my remarks be put following the Boxer remarks on the Hutchison amendment, which I think is the next in line, in order to keep them in the same area so that they will follow along.

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

Mrs. HUTCHISON. Mr. President, I do want to address some of the issues and some of the facts that were misstated by the Senator from California because I think it is very important that the RECORD be set straight. I attempted to correct the Senator from California while she was speaking, but she preferred to continue to speak, so I want the RECORD to be very clear on some of these important facts.

First, the Senator from California and the Senator from Illinois made much of the testimony of a former executive from Arco who had testified, they said, under oath that oil companies had in fact misstated and actually tried to hide the value of the oil and not pay their fair share in oil royalties to the State of California and the City of Long Beach.

In fact, I am very pleased that they brought that up because the case has actually been settled just in the last couple weeks. In fact, the Senators from California and Illinois mentioned that several oil companies had settled because they, for whatever reason, did not want to go forward with the costly litigation. But Exxon decided not to settle, and the Arco employee did testify in the Exxon case, under oath, that the oil companies were misstating the value of the royalties they owed to the State and to the City of Long Beach.

This case went to a jury, a jury in California of 12 citizens. The jury found that the Arco employee was not credible. The jury of his peers determined that the Exxon Corporation had not cheated the taxpayers of California or the City of Long Beach, and they threw out that suit from Long Beach and the State of California. Exxon showed that it had not undervalued its oil. This was a suit for $750 million.

So the Arco executive who testified under oath was in fact discredited in the court, and the jury found that the Arco executive was not persuasive. I say that because so much was made of it, as if the case had gone the other way. But 12 citizens in California got together and the jury verdict was in favor of Exxon.

But having said that, I have said from the very beginning that the lawsuits are not an issue. If any oil company did not value correctly under the present law or regulations, they ought to pay. So it has never been an issue. You would think, from the rhetoric of the Senator from the State of California, that this amendment had something to do with companies not paying their fair share under the present law. Nothing could be further from the truth.

In fact, what we are talking about is changing the valuation of oil royalties. We are talking about unelected Department of Interior employees, who have no accountability, usurping the rights of Congress to set tax policy in this country and affect oil jobs to a huge extent.

The fact of the matter is, what we are trying to do with the amendment, with the Hutchison-Domenici amendment, is we are saying we want it to be fair, we want to continue the moratorium until the Department of the Interior has a fair valuation that accedes to the wishes of Congress, because Congress makes the laws. That is the prerogative of Congress. That is the responsibility of Congress. And it is further the responsibility of Congress to stand up when they delegate authority to a Federal agency to make a rule and that Federal agency does not do what Congress intended for it to do.

Only Congress can step forward and say: No, we did not intend to raise oil royalty rates the way you intend to do it, so we are going to put a moratorium on your rule until you do an oil royalty

rate that is simpler, fairer, will be right for the citizens of our country and right for the oil industry that is very important to this country. So that is what we are talking about today.

I did not like the tone of the rhetoric that ''oil is bad,'' that ''big oil is worse,'' that ''everything about oil companies is bad.'' I thought I was back in the 1960s when it seemed that ''business was bad.'' Well, business is people. Business is jobs. Business is people.

My heavens, why wouldn't we want business to be successful in America so that we have jobs in America? Sometimes when I hear people talking about the ''big bad oil companies,'' I think: Do you want more foreign oil, more foreign jobs, rather than American jobs and American revenue?

I think we have a choice here. Those ''big bad oil companies'' are the basis of the California teacher retirement system pension plan. They are a very important part of the stability of retirement for California teachers, and Texas teachers, for that matter, and probably Illinois teachers as well, because the big oil companies have been a stable source of dividends for maybe 100 years.

I don't know when the big oil companies first started, but they have been good citizens for our country. They are the basis of pension plans and retired people's security all over our country, and they do create thousands of good jobs.

So I do not think we have to beat up on oil companies. They are part of our economy and they are part of the security of our country. And, oh, by the way, since 1953 they have paid more than $58 billion for the right to drill on the people's land—$58 billion in oil royalty payments.

If they did not pay their fair share, I want them to pay their fair share. So talking about settlements and lawsuits is not really an issue, even though a jury of their peers in California did find that Exxon had not cheated in any way.

That isn't the issue. The issue is, we want them to pay. In order for them to pay a fair share, they need to be able to know exactly what they owe, and that is why we hope the MMS will simplify the regulation. In fact, the MMS refuses to even abide by its own previous rulings. So an oil company that is trying to do the right thing goes to a previous ruling on how oil is valued in a particular place, in a particular way, and the MMS says: No, we are not going to be bound by what we did in another case.

That walks away from the value of precedent that is the hallmark of our judicial system and the regulatory system in our country. In most instances, the IRS most certainly abides by its previous rulings. They give opinion letters that people can rely on so they can pay their fair share of taxes. Courts set precedents with rulings every day so people will know what the law is and what they must do to comply. Not the MMS. They have one opinion here and one opinion there. Congress asked them to make it simpler, and they have gone far beyond what Congress intended. It is our responsibility to make sure they do what is right for the taxpayers of America. That is what the Hutchison-Domenici amendment will assure they do.

This is not an industry that has had an easy time in the last year and a half. In fact, oil prices have been lower than ever in the history of our country, adjusted for inflation, $7, $8 a barrel, a lot of that because of the glut of imported oil on the market. We have lost half a million jobs in the oil industry in the last 10 years. We are importing 57 percent of the oil in our country. If we have bad oil royalty principles, it also affects natural gas, which is the most important substitute fuel in many of our coal burning areas. Natural gas is much cleaner, better for the environment than coal. So when you start tampering in a negative way with the oil royalty rates, you also are going to affect the price and availability of natural gas, because natural gas, of course, is a byproduct of drilling for oil. If you discourage our American companies and our American people from being able to get our own oil resources, you are also cutting back on our supply of natural gas. That could be dangerous to our economy and dangerous to the people who live in our country who depend on natural gas to heat their homes.

I think it is important we put this in perspective. It is important we look at what we are talking about. Senator BOXER said the new rule would only affect 5 percent of the oil companies, and it would be just the big oil companies. She said she supports small oil companies. Well, I hope she will, because if she will, she will support the Hutchison-Domenici amendment because it is the Hutchison-Domenici amendment that will keep our small producers in business after the devastating effects of low oil prices from the last year.

In fact, every single oil company is affected. There are 2,400 producers with Federal leases. Only 70 of them are not classified by the SBA as small businesses. All 2,400 are opposed to this new rule that will require them basically to pay taxes on their costs. The small oil companies that the Senator said she would support are very opposed to her position. They are for the Hutchison-Domenici amendment because they don't want a new rule that would second-guess sales of oil at the wellhead and make fuzzy exactly when the oil should be valued. They don't want a new duty to market and incur the costs of marketing and selling the product and bear the cost without any allowance. They are very concerned about this.

If Senator BOXER believes that the small oil companies are against the Hutchison amendment, I hope she will talk to them. They will assure her that this is going to put one more chink in their ability to create jobs and continue to drill oil and natural gas in our country, rather than choosing to go overseas where it is much cheaper to do it and where you don't have to pay as much as we pay in America.

I hope very much that she will reconsider, knowing that all of the small companies are affected by this new ruling.

I will read from some of the letters of people and groups that are supporting the Hutchison-Domenici amendment.

People for the USA writes:

Dear Senator HUTCHISON: We support your fight to simplify the current royalty calculation system. On behalf of 30,000 grassroots members of People for the USA, I want to thank you for your diligent efforts to bring common sense to royalty calculations on Federal oil and gas leases. Energy Secretary Bill Richardson has suggested that domestic oil field workers look to opportunities overseas. Senator, an administration that talks about kicking American resource producers out of the country has a badly skewed set of priorities.

That is signed by Jeffrey Harris, Executive Director.

The National Black Chamber of Commerce writes:

Dear Senator HUTCHISON: The efforts of MMS are, indeed, ludicrous. Collectively the national economy is booming and the chief subject matter is ''tax reduction,'' not ''royalty increase,'' which is a cute term for tax increase. What adds salt to the wound is the fact that despite a booming economy from a national perspective, the oil industry has not been so fortunate and is on hard times. We need to come up with vehicles that will stimulate this vital part of our economic bloodstream, not further the damage.

That is signed by Harry Alford, President and CEO, National Black Chamber of Commerce.

Citizens for a Sound Economy:

The 1999 Omnibus Appropriations Act included moratorium language concerning a final crude oil valuation rule, with the expectation that the Department of Interior and industry would enter into meaningful negotiations in order to resolve their differences. Unfortunately, more time is still needed for government and industry to reach a mutually beneficial compromise.

It is signed by Paul Beckner, President.

Citizens Against Government Waste:

Passage of this provision in the Interior Appropriations bill will provide the time necessary for the MMS and the industry to reach a fair and workable agreement on the rule benefiting both sides.

It is signed by Council Nedd II, Director, Government Affairs, Citizens Against Government Waste.

Frontiers of Freedom:

In a misleading letter dated July 21, 1999, detractors of the Hutchison-Domenici amendment allege it will cost taxpayers, school children, Native Americans and the environment. That is not so. It is time to set the record straight. This amendment does not alter the status quo at all. This amendment says to Secretary Babbitt, spend no money to finalize a crude oil valuation rule

until the Congress agrees with your proposed methodology for defining value for royalty purposes.

That is signed by Grover Norquist, President, Americans for Tax Reform; George Landrith, Executive Director for Frontiers of Freedom; Patrick Burns, Director of Environmental Policy, Citizens for a Sound Economy; Fred Smith, President Competitive Enterprise Institute; Al Cors, Jr., Vice President for Government Affairs, National Taxpayers Union; Jim Martin, President, 60 Plus; David Ridenour, National Center for Public Policy Research; Adena Cook, Blue Ribbon Coalition; Bruce Vincent, Alliance for America; Chuck Cushman, American Land Rights Association; and Malcolm Wallop, Chairman of Frontiers of Freedom.

Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FRONTIERS OF FREEDOM
Arlington, VA, July 30, 1999.

Re Supporting the Hutchison-Domenici Amendment (a Moratorium on the Proposed Oil Valuation Rule which Prevents Unauthorized Taxation and Lawmaking by the Department of Interior).

Hon. KAY BAILEY HUTCHISON,
United States Senate, Washington, DC 20510

DEAR SENATOR HUTCHISON: We are writing to express our support for the Hutchison-Domenici amendment to the FY 2000 Appropriations bill. The Hutchison-Domenici amendment prevents the Department of the Interior from rewriting laws and assessing additional taxes without the consent of the Congress. This role properly rests with the legislative branch, not with unelected bureaucrats.

In a misleading letter dated July 21, 1999, detractors of the Hutchison-Domenici amendment allege it will cost taxpayers, schoolchildren, native Americans, and the environment.'' That is not so! It's time to set the record straight—this amendment does not alter the status quo at all. This amendment says to Secretary Babbitt: Spend no money to finalize a crude oil valuation rule until the Congress agrees with your proposed methodology for defining value for royalty purposes.

We contend that a mineral lease is a contract, whether issued by the United States or any other lessor, as such, its terms may not be unilaterally changed just because a government bureaucrat thinks more money can be squeezed from the lesser by redefining the manner in which the value of production is established. What royalty amount is due is determined by the contracts and statues, and nothing else. For seventy-nine years the federal government has lived according to a law that established that the government receives value at the well—not downstream after incremental value is added. The bureaucrats at the Interior Department are in effect imposing a value added tax through the backdoor.

Bureaucrats are saying that value should be measured in downstream markets hundreds of miles from one's lease, or based upon prices set in futures trading on the New York Mercantile Exchange, both of which routinely attribute higher value than exists at the ''wellhead.'' If bureaucrats had it their way, they would assess a tax all the way to the gasoline, ignoring the costs associated with bringing oil to that pump. If Congress intended this, they would have said so in the law.

This is nothing short of a backdoor tax via an unlawful, inequitable rulemaking which Secretary Babbitt says is necessary because of ''changing oil markets.'' But, we think his real result and that of his supporters such as Senator Boxer, is to cripple the domestic petroleum industry, and drive them to foreign shores and advance their goal of reducing fossil fuel consumption. This is why they falsely claim that green eyeshade accounts somehow are impacting the environment.

The outcry on behalf of schoolchildren is particularly hypocritical. Senator Boxer and Rep. George Miller are responsible for a mineral leasing law amendment in the 1993 Omnibus Budget Reconciliation Act which reduces education revenues to the State of California by over $1 million per year—far more than the Department's oil valuation rule would add to California's treasury (approximately $150,000 per year as scored by the Congressional Budget Office). So really, who is harming schoolchildren's education budgets? The oil industry provides millions and millions of royalty dollars each year for the U.S. Treasury and for State's coffers.

The ''cheating'' which Sen. Boxer and others allege is unproven. Reference to settlements by oil companies as proof of fraud is improper. When President Clinton settled the Paula Jones lawsuit his attorney admonished Senator Boxer and her fellow jurors to take no legal inference from that payment. We agree. As such, oil company settlements cannot be given precedential value. Who can fight the government forever when the royalty dollars they have paid in are used to fund enormous litigation budgets?

Lastly, two employees of the federal government who were integral to the ''futures market pricing'' philosophy espoused in the Department's rulemaking have been caught accepting $350,000 checks from a private group with a stake in the outcome of False Claims Act litigation against oil companies. Ironically, the money to pay-off these two individuals for their ''heroic'' actions while working as federal employees came from a settlement by one oil company. The *Project on Governments Oversight* (POGO) last fall received well over one million dollars as a plaintiff in the suit. Shortly thereafter POGO quietly ''thanked'' these public servants for making this bounty possible. The Public Integrity Section of the Department of Justice has an ongoing investigation. We find it unconscionable the Administration seeks to put the valuation rule into place without getting to the bottom of this bribe first. The L.A. Times recently drew a parallel with the Teapot Dome scandal of the 1920's, but who is Albert Fall in this modern day scandal?

The Department's rule amounts to unfair taxation without the representation which Members of Congress bring by passing laws. If Congress chooses to change the mineral leasing laws to prospectively modify the terms of a lease, so be it. It should do so in the proper authorizing process with opportunity for the public to be heard. A federal judge has recently ruled the EPA has unconstitutionally encroached upon the legislature's lawmaking authority when promulgating air quality rules. We are convinced the Secretary of the Interior, in a similar manner, is far exceeding his authority unilaterally by assessing a value added tax.

Let Congress define the law on mineral royalties. We elected Members to do this job, we didn't elect Bruce Babbitt and a band of self-serving bureaucrats. Support the Hutchison-Domenici amendment.

Sincerely,

George C. Landrith, Executive Director, Frontiers of Freedom.
Patrick Burns, Director of Environmental Policy, Citizens for a Sound Economy.
Fred L. Smith, Jr., President, Competitive Enterprise Institute.
Al Cors, Jr., Vice President for Government Affairs, National Taxpayers Union.
Jim Martin, President, 60 Plus.
Grover G. Norquist, President, Americans for Tax Reform.
Chuck Cushman, Executive Director, American Land Rights Association.
Bruce Vincent, President, Alliance for America.
Adena Cook, Public Lands Director, Blue Ribbon Coalition.
David Ridenour, Vice President, National Center for Public Policy Research.

RIO GRANDE VALLEY PARTNERSHIP,
INTERNATIONAL CHAMBER OF COMMERCE,
Weslaco, TX, July 23, 1999.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Washington, DC.

DEAR SENATOR HUTCHISON: On behalf of the Board of Directors of the Rio Grande Valley Partnership, I want to thank you once again for your leadership to prevent the Minerals Management Service on the U.S. Department of Interior from finalizing its new oil royalty regulations.

Until Congress is assured that they will be fair, the new regulations must work for government and for producers, and not result in litigation, as the proposed regulations would. Uncertainty and litigation just add delays and costs to producers large and small, and to the federal government, and that can make domestic oil and gas production from federal lands less competitive, adversely affective jobs in Texas and other producing areas and reducing royalty revenues to the federal government.

Please continue your lead in the fight to stop the Minerals Management Service from making new rules final until they solve the host of problems pointed out by oil producers, large and small.

Sincerely,

BILL SUMMERS,
President/CEO.

PEOPLE FOR THE USA,
Pueblo, CO, July 27, 1999.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Washington, DC.

DEAR SENATOR HUTCHISON: On behalf of the 30,000 grassroots members of People for the USA, I would once again like to thank you for your diligent efforts to bring common sense to royalty calculations and payments on federal oil and gas leases.

In their efforts to balance environmental protection with economic growth through grassroots actions, our members (not just those in Texas) always notice and appreciate strong, common sense leadership such as you have shown.

We support your fight to simplify the current royalty calculation system. It is already a burden on a struggling domestic oil and gas industry, and the Minerals Management Service proposal simply adds insult to injury. Royalty calculation is not, as Interior Communications Director Michael Gauldin remarked, ''an issue to demagogue for another year.'' With 52,000 jobs lost in just the last year?

Worse, Energy Secretary Bill Richardson has suggested that domestic oilfield workers look to opportunity overseas. Senator, an Administration that talks about kicking American resource producers out of the country has a badly skewed set of priorities.

We appreciate what you are doing to straighten them out, and will back you up at the grass roots any way we can.

Again, on behalf of thousands of hard-working American resource producers, thank

you. If you have any specific suggestions as to how we can assist you, feel free to contact me any time.

Respectfully,

JEFFREY P. HARRIS,
Executive Director.

NATIONAL BLACK CHAMBER OF COMMERCE
August 5, 1999.

Re: MMS Royalties

Hon. KAY BAILEY HUTCHISON,
Senator, State of Texas, Rm. 284, Senate Russell Office Building Washington, DC.

DEAR SENATOR HUTCHISON: The National Black Chamber of Commerce has been quite proud of the leadership you have shown on the issue of oil royalties and the attempt of the Minerals Management Service's, Department of Interior, to levy eventual increases on the oil industry.

The efforts of MMS are, indeed, ludicrous. Collectively, the national economy is booming and the chief subject matter is ''tax reduction'' not ''royalty increase'', which is a cute term for tax increase. What adds ''salt to the wound'' is the fact that despite a booming economy from a national perspective, the oil industry has not been so fortunate and is on hard times. We need to come up with vehicles that will stimulate this vital part of our economic bloodstream, not further the damage.

We support your plan to re-offer a one-year extension of the moratorium on the new rule proposed by MMS. We will also support any efforts you may have to prohibit the new rule. Good luck in giving it ''the good fight''.

Sincerely,

HARRY C. ALFORD,
President & CEO.

CITIZENS FOR A SOUND ECONOMY
Washington, DC, July 27, 1999.

DEAR SENATOR HUTCHISON: The 250,000 grassroots members of Citizens for a Sound Economy (CSE) ask you to oppose any attempts in the Senate to strike the provision in the Interior Appropriation bill that delays implementation of a final crude oil valuation rule.

The current royalty system is needlessly complex and results in time-consuming disagreements and expensive litigation. The Minerals Management Service's (MMS) new oil valuation proposal is, however, deeply flawed and would have the ultimate effect of raising taxes on consumers.

The 1999 Omnibus Appropriations Act included moratorium language concerning a final crude oil valuation rule with the expectation that the Department of the Interior (DOI) and industry would enter into meaningful negotiations in order to resolve their differences. Unfortunately, more time is still needed for government and industry is required to reach a mutually beneficial compromise.

CSE recognizes this need and opposes any attempt to halt the moratorium, or curtail efforts to bring about a simpler, more workable rule.

Thank you for your attention and efforts, and for your continuing leadership in this important matter.

Sincerely,

PAUL BECKNER,
President.

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, September 10, 1998.

Hon. KAY BAILEY HUTCHISON,
United States Senate, Washington, DC.

DEAR SENATOR HUTCHISON: On behalf of the 600,000 members of Council for Citizens Against Government Waste, we respectfully ask you to oppose any efforts in the Senate to strike the provision in the Interior Appropriations Bill that delays the implementation of a final crude oil valuation rule, unless a resolution between MMS and industry can be reached. The Minerals Management Service (MMS) proposed new oil valuation rules that would eventually raise taxes on producers. The rulemaking effort has involved several revisions to the original proposal, but remains ambiguous, unworkable, and would create even greater uncertainty and unnecessary litigation.

Passage of this provision in the Interior Appropriations Bill will provide the time necessary for the MMS and the industry to reach a fair and workable agreement on the rule, benefiting both sides. The taxpayers have a vested interest in this issue, because the rule proposed by the MMS would lead to an unnecessary administrative burden for both the government and the private industry as auditors, accountants, and lawyers attempt to resolve innumerable disputes over the correct amounts due.

Please take this opportunity to prevent the current proposed rule, which benefits no one, from being implemented. We urge you to oppose any amendment to strike the provision for delay of final valuation rule in the Interior Appropriations Bill as it reaches the floor for debate in the full Senate this week.

We wish to thank you for your efforts in this matter. Your continued commitment and integrity in the promotion of efficiency and accountability in the federal government is sincerely appreciated. If I can be of further assistance, please do not hesitate to contact me.

Regards,

COUNCIL NEDD II,
Director, Government Affairs & Grassroots.

Mrs. HUTCHISON. Mr. President, I have heard the Senator from California throwing around numbers such as this has cost the taxpayers of America $88 million already, or $60 million already. And I pointed this out to her. I ask unanimous consent that the Congressional Budget Office estimate be printed in the RECORD.

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

FY 2000 INTERIOR AND RELATED AGENCIES—S. 1292, AS REPORTED, PROPOSED FLOOR AMENDMENTS

[Budget account—in millions]

No.	Pending		Proposed		Difference	
	BA	O	BA	O	BA	O
1603—Hutchinson Oil valuation	.....	.....	11	11	11	11

Mrs. HUTCHISON. Mr. President, this shows there would be a proposed difference in income of $11 million. In addition to putting that in the RECORD, I want to say that we have offset that $11 million. I have to say I think it is ludicrous that you would say we think that in the future you won't get $11 million and, therefore, we need to make up that proposed lost revenue for a tax that has not even been put in place. Nevertheless, that was the ruling we were given, so we did offset with $11 million. But it is ridiculous to say that you have to offset the tax that hasn't been put in place because you don't know what businesses are going to pull up stakes and say: It is too expensive to drill with this kind of royalty rate. We are going to go overseas and we are going to take our jobs with us.

So I am not sure that it would be $11 million, or anything at all. My hunch is that we are going to lose jobs and we are going to lose income, and the schoolchildren of this country are going to suffer because the oil business has not yet recovered from the crisis.

Mr. President, on that note, I have to also say that I think it is very important that when we are talking about a proposed rule that hasn't been put in place and we are already saying how much will be missed, clearly, there is no concept of how business can work and make a profit and continue to create jobs. So I am concerned that if we raise this royalty valuation, which is a tax on the oil industry, at a time when many of them are on their knees anyway, we are not going to have income of $11 million, or $60 million, or anything else. In fact, I think we are going to go into negative income, which is exactly what has happened in Texas in the last year and a half, where schools have had to shut their doors and close down and consolidate classrooms because they could not make their budget because of the oil income not coming in. We lost $150 million just in the last year in oil royalty revenue in Texas alone. So this is not the time to raise rates.

Let's talk about the kind of taxes. We are talking about fairness. In fact, we are talking about what we tax. Today, the oil is valued as it comes out of the ground, after it has been cleaned up and is ready to be sold. You take out the contaminants and it is clean and that is where it is valued. But what the Government and MMS are proposing to do is say, no, we want you to go out and get a buyer for the oil and incur the cost of buying; and then we want you to put it in a pipeline and take it to where it is going to be picked up by the buyer, and we are going to value it there. That is taxing the cost. That just doesn't make sense. That is like saying to McDonald's, whatever you spend in advertising, we are going to tax you that amount. We are going to tax you on your advertising for McDonald's hamburgers.

Mr. President, that concept will not fly. It doesn't happen in any other industry. Whenever would the Government expect taxes on expenses? It just doesn't make sense. But sometimes I think people I hear arguing on the Senate floor have never been in business. If you have never been in business and have never met a payroll, then you don't really understand how hard it is to make a profit and create new jobs and do right by your employees. I have been in business. I have met a payroll. I know how hard it is, especially in a small business. And when the prices are $7 or $8 a barrel and the costs are $14 a barrel, you can't stay in business very long. And if you can't stay in business very long, there are a lot of people and families who don't have jobs; and if you have to lay off people

who are working at the well, then you also have to lay off people in the oil fields service industry and the oil supply industry because you aren't going to need the supplies if you are not drilling. And if it is too expensive to drill in America, you are going to go somewhere else, and you are going to create jobs in a foreign country.

Mr. President, I guess the last thing I will say in refuting the arguments I heard from the Senator from Illinois and the Senator from California is that it always seems the tack is to say, well, they don't really care about this issue; they are supporting big oil because big oil has contributed to their campaigns. I don't go around looking at whether trial lawyers give to other Senators and, therefore, they don't vote for tort reform. I don't accuse people of not representing the interests of their States. Of course, I have oil workers in my State. I hope I am supported by people who work in my State and live in my State. But I would not do anything that would hurt the people of my State. The idea that that is connected to campaign contributions I just think is cynical, and I don't think it adds integrity to the debate.

You gauge that against a most incredible statement when you accuse people who want to keep jobs in America, who want fair pricing, fair taxing, and fair payment of taxes—you accuse people of having some kind of other motive, and then you pick up a magazine called Inside Energy and the Department of Interior communications director says on November 2 of 1998, regarding the Hutchison-Domenici amendment that would require them to have a fair valuation:

> We are sticking to the position we have taken. It gives us an issue to demagog for another year.

Mr. President, I think we have heard a lot of demagoguery on this issue. I have heard the most outrageous debate and arguments that I have heard on just about any subject on this issue, trying to make it seem as if oil companies that are being sued are somehow connected to whether or not we have a fair royalty valuation, trying to mesh those issues. That just does not make sense. It does not add to the debate. But to have the kind of demagoguery that we have heard on the floor and then to have the Department of the Interior admit that what they want is an issue to demagog, I have to say I think the Los Angeles Times editorial proves they did get a demagoguery editorial. I think some of the network television bought into it. I think there has been some very unfair coverage because we are talking about Congress standing up for its right to tax. If Congress doesn't stand up, who will? Who is accountable at the Department of the Interior? It is a matter of fairness.

I am not going to walk away from that responsibility. I know what I am doing is right because I know we can have fair taxes of royalty. We are talking about an industry that paid $58 billion in the last 40 years in royalty rates. They have given a lot back to this country. They have given jobs. They have paid royalty rates. I want them to pay fair royalty rates. I would never stand up and say they shouldn't, or if they haven't that they shouldn't be fined. I think they should. But we are talking about people. We are talking about jobs. We are talking about the American economy. We are talking about retirement plans that depend on stable oil companies and the oil industry.

I think fair taxation is the responsibility of Congress. That is what the Hutchison-Domenici amendment will assure—fair taxation intended by Congress.

We will have some more debate on this. I certainly hope in the end my colleagues will not be susceptible to rank demagoguery—to rhetoric that is harsh and not in any way fair. It may be fun to ask questions back and forth on the Senate floor indicating that people's motives are not the right motives or are not pure, but that doesn't add to the debate. It is our responsibility to make policy. We are going to do it.

● Mr. MCCAIN. Mr. President, the Interior Appropriations bill funds critical programs that are vital to the protection of our nation's land and natural resources and supports federal programs for Native Americans, as well as several energy and agriculture programs.

I commend the managers of this bill for their efforts to keep spending in this bill within budget limitations as required by the Balanced Budget Act of 1997. Unfortunately, I can still find in this bill and the committee report approximately $216 million in low-priority, unauthorized or unrequested spending that has not been considered in the normal merit-based review process.

In the usual fashion of appropriations bills and reports, little explanation is provided as to the merit or national priority of various projects receiving earmarks. We are left to imagine the reasons that certain projects, such the Bruneau Hot Springs Snail Conservation Committee or goose-related crop depredation projects in Washington and Oregon, are deserving of a $500,000 earmark each.

I am sure these projects are significant to the communities that would benefit from these directed funds. But we are unfairly singling out projects of parochial interest, rather than evaluating other more equally deserving projects that could be more significant to the protection of our land, forest or energy resources nationwide.

Not only do we undermine the value of our legislative process by this type of arbitrary spending, we betray the confidence of the American people who rely on our fair and equitable judgement to fund those projects of greatest need and priority. Instead, we reward their faith by choosing to provide $1 million of taxpayer funds to rehabilitate a bathhouse at Hot Springs National Park in Arkansas. I question the necessity of fixing up a public bathhouse when federal school facilities for Indian children are in a deplorable state of disrepair and ill maintenance.

In a similar fashion, $1 million is earmarked to support the Olympic Tree Program being developed by the Salt Lake Olympic committee. While our country takes great pride in hosting the international Olympics events, I find it difficult to fathom why we would expect the American people to accept the expenditure of a million dollars for this purely aesthetic purpose.

This bill also continues a disturbing trend of including legislative riders that, if enacted, will make substantive changes to current law and regulations. By using the appropriations process as a policy hammer, we are circumventing a fair and deliberative legislative review of the need for such changes. We also shortchange the interested public by eliminating their opportunity for input and participation.

I have heard from many interested parties who decry the inclusion of riders that will extend grazing permits without completion of due environmental analyses and a provision that overturns an administrative legal opinion regarding the amount of land that can be used for mining claims. I know that these are important issues in my state of Arizona, yet I am precluded from fully representing the interests of my constituents when legislative riders such as these are attached to an appropriations measure that must be passed within a very short timeframe with little to no opportunity to make changes.

Just yesterday, the Senate voted to restore Rule XVI which makes floor amendments of a policy nature out of order on an appropriations bill. I supported restoration of this Rule. Ironically, this Rule only applies to floor amendments. I believe very strongly that it should be applied to committee actions where a small minority of the Senate can act to include legislative riders on an appropriations bill without even consulting the relevant authorizing committees. I believe the Rule should be expanded to cover committee actions.

Mr. President, ensuring the protection of our nation's resources and meeting federal trust obligations to Native Americans are among our most important duties. With this type of shameful waste of taxpayer dollars and inappropriate legislative mandates on an appropriations measure, we are betraying our responsibility to spend the taxpayers' dollars responsibly and enact laws and policies that reflect the best interests of all Americans, rather than the special interests of a few.

Unfortunately, due to its length, this list of $216 million of earmarks and objectionable provisions in S. 1292, and its accompanying Senate report, cannot be printed in the RECORD. However, the list will be available on my Senate webpage.●

EAST TIMOR

Mrs. HUTCHISON. Mr. President, before I leave, I want to take a moment to also talk about one other issue. That is the issue of what is happening in Indonesia.

All of us have seen atrocities and read of atrocities in many parts of the world—most recently in Indonesia where we have seen the people of East Timor vote for independence, and they were told by the Government of Indonesia that vote would be respected. Now we see bands of militia-type people that, it is said, could be connected with the Indonesian Government going in and committing terrible acts. This is a terrible thing. It is horrible. We hate to see it.

I think there are many things that can be done.

First and foremost, we must call on Indonesia to do what they said they would do and respect the right of the people of East Timor in their independence.

I also think we should be supportive of those who are volunteering to go over there if necessary. This is where I think we can show some leadership from the United States. I would call on the President to do that. That is not to all of a sudden start talking about sending American troops into East Timor.

I think by beginning to start bandying that around, all of a sudden you are going to start seeing people depend on American troops. I don't think we have to start talking about American troops in East Timor. I think it would be harmful if we did that because of the vast commitment we have in the Balkans right now as well as the DMZ in Korea, as well as in Japan, as well as in Europe, and other places in the world.

No one would ever walk away from the responsibility that America must shoulder as a superpower. But Australia has stepped up to the line to try to help bring an end to the chaos that I hope is temporarily erupting in East Timor. I think we should help them do that by offering logistical support but letting people volunteer.

This is a time when we can look at the areas of the world that have regional conflicts, and we can let the sophisticated countries that have quality military operations be the main part of a force in those areas.

In fact, it appears that Australia, New Zealand, and many others are volunteering to take this policekeeping mission. I think it would be wise for us to let them do that. Let them take that responsibility and offer our logistical help if they need it. But don't start bandying about the possibility of U.S. troops going in on the ground when our troops are stretched so thin—when we have had the worst recruiting year and the worst retention year since the early 1970s because our troops are in mission fatigue. They are not able to stay in top training because they are stretched so thin.

I hope the President will take this opportunity to set a U.S. policy and to work with our allies to have a division of responsibility that is fair.

If we do that, then America will be able to do what only it can uniquely do, and that is the air power that we have shown that we have in the last 6 months. Let us keep our role to responding where only we are able to keep the peace—in the Middle East, in Korea, in Japan, and in parts of Europe. Let's work with our allies for a fair responsibility sharing that will set a precedent so that we will all have the staying power to provide the critical needs in regions as they occur.

I hope President Clinton will take this opportunity to be a leader and to represent the United States and our national security issues and our national security stability. If he will do that, I think you will begin to see a foreign policy that will evolve with all of our allies sharing and keeping all of us strong by not overburdening any one of us to the detriment of all.

Thank you, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

JUVENILE JUSTICE CONFERENCE

Mr. LEAHY. Mr. President, so far, we have had one meeting of a conference to resolve differences in the Senate and House passed juvenile justice bills. I commented at that conference meeting, on August 5, 1999, about how unfortunate it was that the leadership in the Congress delayed action on the conference all summer. In fact, the conference met less than 24 hours before the Congress adjourned for its long August recess.

Unfortunately, we did not conclude our work but left this conference and important work on the juvenile justice legislation to languish for the last five weeks of the summer.

Due to the delays in convening this conference and then its abrupt adjournment before completing its work, we knew before our August recess that the programs to enhance school safety and protect our children and families called for in this legislation would not be in place before school began.

The fact that American children are starting school without Congress finishing its work on this legislation is wrong.

We had to overcome technical obstacles and threatened filibusters to begin the juvenile justice conference. It is no secret that there are those in both bodies who would prefer no action and no conference to moving forward on the issues of juvenile violence and crime. Now that we have convened this conference, we should waste no more time to get down to business and finish our work promptly.

We have seen the kind of swift conference action the Congress is capable of doing with the Y2K law that provides special legal protections to businesses. That Y2K bill was passed by the Senate almost a month after the HATCH-LEAHY juvenile justice bill, on June 16th, but was sent to conference, worked out, and sent to the President's desk within two short weeks. That bill is already law. The example set by the Y2K legislation shows that if we have the will, there is a way to get legislation done and done quickly.

Those of us serving on the conference and many who are not on the conference have worked on versions of this legislation for several years now. We spent two weeks on the Senate floor in May considering almost 50 amendments to S. 254, the Senate juvenile justice bill, and making many improvements to the underlying bill. We worked hard in the Senate for a strong bipartisan juvenile justice bill, and we should take this opportunity to cut through our remaining partisan differences to make a difference in the lives of our children and families.

I appreciate that one of the most contentious issues in this conference is guns, even though sensible gun control proposals are just a small part of the comprehensive legislation we are considering. The question that the majority in Congress must answer is what are they willing to do to protect children from gun violence?

A report released two months ago on juvenile violence by the Justice Department concludes that, ''data . . . indicate that guns play a major role in juvenile violence.'' We need to do more to keep guns out of the hands of children who do not know how to use them or plan to use them to hurt others.

Law enforcement officers in this country need help in keeping guns out of the hands of people who should not have them. I am not talking about people who use guns for hunting or for sport, but about criminals and unsupervised children. An editorial that appeared today in the Rutland Daily Herald summed up the dilemma in this juvenile justice conference for the majority:

> Republicans in Congress have tried to follow the line of the National Rifle Association. It will be interesting to see if they can hold that line when the Nation's crime fighters let them know that fighting crime also means fighting guns.

Every parent, teacher and student in this country was concerned this summer about school violence over the last