

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF NOVEMBER 16, 2005—

Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Natural Disaster Student Aid Fairness Act (P.L. 109-86) .....	36	18	0
Community Disaster Loan Act of 2005 (P.L. 109-88) .....	751	376	0
Medicare Cost Sharing and Welfare Extension Act of 2005 (P.L. 109-91) .....	354	341	0
An act to extend the special postage stamp for breast cancer research for two years (P.L. 109-100) .....	-1	-1	0
Appropriation Acts:			
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109-13) .....	-39	-21	11
Interior Appropriations Act, 2006 (P.L. 109-54) .....	26,211	17,301	122
Legislative Branch Appropriations Act, 2006 (P.L. 109-55) .....	3,804	3,185	0
Homeland Security Appropriations Act, 2006 (P.L. 109-90) .....	31,860	19,306	0
Agriculture Appropriations Act, 2006 (P.L. 109-97) .....	99,333	57,310	0
Foreign Operations Appropriations Act, 2006 (P.L. 109-102) .....	20,979	8,164	0
Total enacted this session: .....	184,085	108,545	-450
Continuing Resolution Authority:			
Continuing Resolution, 2006 (P.L. 109-77) .....	615,060	392,014	0
Passed pending signature:			
Energy and Water Appropriations Act, 2006 (H.R. 2419) .....	30,459	19,604	0
State, Justice, and Commerce Appropriations Act, 2006 (H.R. 2862) .....	58,2190	35,763	0
Total, passed pending signature .....	88,669	55,367	0
Entitlements and mandatories:			
Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs .....	366,557	379,409	n.a.
Total Current Level 1,2/ .....	2,067,510	2,088,022	1,607,200
Total Budget Resolution .....	2,144,384	2,161,420	1,589,892
Adjustment to budget resolution for emergency requirements 3/ .....	-50,000	-62,424	n.a.
Adjusted Budget Resolution .....	2,094,384	2,098,996	n.a.
Current Level Over Adjusted Budget Resolution .....	n.a.	n.a.	17,308
Current level Under Adjusted Budget Resolution .....	26,874	10,974	n.a.

<sup>1</sup> Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level totals exclude: \$30,757 million in outlays from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109-13); \$7,750 million in outlays from the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109-61); \$21,841 million in outlays from the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109-62); \$200 million in budget authority and \$245 million in outlays from the TANF Emergency Response and Recovery Act of 2005 (P.L. 109-68); -\$3,191 million in revenues and \$128 million in budget authority and outlays from the Katrina Emergency Tax Relief Act of 2005 (P.L. 109-73); \$47,743 million in budget authority and \$26,543 million in outlays from the Continuing Resolution (P.L. 109-77); and -\$751 million in budget authority from the Community Disaster Loan Act of 2005 (P.L. 109-88).

<sup>2</sup> Excludes administrative expenses of the Social Security Administration, which are off-budget.

<sup>3</sup> H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2006, in the amount of \$50,000 million in budget authority and \$62,424 million in outlays, which would be exempt from the enforcement of the budget resolution. Since the current level totals exclude the emergency appropriations in P.L. 10-13, P.L. 109-61, and P.L. 109-62 (see footnote 1 above), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

Notes: n.a. = not applicable; P.L. = Public Law.

Source: Congressional Budget Office.

### NOMINATIONS OF WILLIAM KOVACIC AND THOMAS ROUSCH

Mr. WYDEN. Mr. President, when it comes to energy, the Federal Trade Commission, FTC, is basically out of the consumer protection business.

Well over a year ago, I released a report documenting the Federal Trade Commission's campaign of inaction when it comes to protecting consumers at the gas pump. My report documented how the FTC has refused to challenge oil industry mergers that the Government Accountability Office says have raised gas prices at the pump by 7 cents a gallon on the West Coast. My report also documented how the FTC failed to act when refineries have been shut down or to stop anti-competitive practices like redlining and zone pricing.

Since then, nothing has changed.

Despite the recent record-high prices for consumers and record profits by big oil companies, we are seeing a record level of inaction by the Federal Trade Commission, FTC, on behalf of energy consumers.

In the last few months, when the price of gasoline soared to an all-time record-high level, the FTC has been invisible. As far as I can tell, the FTC failed to take any action at all in the wake of hurricanes in the gulf that sent the price of gasoline skyrocketing to over \$3 a gallon nationwide.

If you do a Google search on the "FTC and gasoline prices," nothing comes up that shows the FTC is taking any action on behalf of energy consumers.

What you will find are statements by the Chairman of the Federal Trade

Commission arguing against giving the agency additional authority to protect consumers against price gouging at the gas pump. For example, the FTC Chairman recently made statements opposing Federal price gouging laws, because "they are not simple to enforce" and that they could do more harm to consumers.

But 28 States already have price gouging laws on their books and two state attorney General testified at last week's joint hearing by the Senate Energy and Commerce Committees that these laws are more beneficial than harmful to consumers.

In her testimony before the joint Senate hearing last week, FTC Chairman Majoras described what I consider to be an astounding theory of consumer protection when she essentially said there is no need for Federal price gouging laws no matter how high the price goes. She argued that gasoline price gouging was a "local issue" even if the price gouger was a multinational oil company.

FTC officials also recently testified before Congress that the agency has no authority to stop price gouging by individual oil companies. Despite this clear gap in the agency's authority, the FTC has refused to say what additional authority it needs to go after price gouging, as I have pressed them to do for years.

Mr. President and colleagues, there is gasoline price gouging going on today and it didn't start with Hurricane Katrina. As The Wall Street Journal documented in September, gasoline prices have increased twice as fast as crude oil price during the past year.

Clearly, the oil companies are not simply passing on higher crude oil costs but are also adding on substantial increases to the cost of gasoline above and beyond the higher crude costs.

Since the early 1970s, there has never been the kind of disparity between increases in the price of gasoline and the increase in the price of crude oil that we are seeing today. We didn't see this great of a price difference even in the days of the longest gas lines following the OPEC embargo.

Over the past 30 years, gasoline prices never rose more than 5 percent higher in a year than the cost of crude increased. But in the past year, gas price increases outpaced crude by 36 percent. And since Hurricane Katrina, the price difference has soared even higher to 68 percent.

Further evidence of price gouging can be found in what happened on the west coast immediately following Hurricane Katrina when prices surged 15 cents per gallon overnight. For years, oil industry officials, the Federal Trade Commission and other government agencies have maintained that the west coast is an isolated gasoline market from the rest of the country.

West coast supplies were not affected by the hurricane. The west coast gets almost none of its gasoline from the gulf. If the west coast is an isolated market as the oil industry has claimed for years, then Katrina is no justification for jacking up gas prices on the west coast immediately after the hurricane hit.

The FTC is the principal consumer protection agency in the Federal Government. It is the Federal agency that

can and should take action when gasoline markets are going haywire as they have both before and since Hurricane Katrina.

But instead of action, we have excuses. In the past, the FTC often claimed that it was studying the problem or monitoring gasoline markets as an excuse for its inaction on gas pricing.

Recently, the FTC's campaign of inaction has even extended to its studies. The FTC Chairman testified last week that a study of gas price gouging that Congress required the FTC to complete by this month would not be ready until next spring.

Mr. President, the FTC's campaign of inaction is approaching the point of paralysis!

The FTC has continued its program of inaction on behalf of gasoline consumers despite findings by the U.S. Government Accountability Office, GAO, that the FTC's policies are raising prices at the gas pump.

In May 2004, GAO released a major study showing how oil industry mergers the FTC allowed to go through during the 1990's substantially increased concentration in the oil industry and increased gasoline prices for consumers by as much as seven cents per gallon on the West Coast.

Specifically, GAO found that during the 1990's the FTC allowed a wave of oil industry mergers to proceed, that these mergers had substantially increased concentration in the oil industry and that almost all of the largest of the oil industry mega-mergers examined by GAO each had increased gasoline prices by one to two cents per gallon. Essentially, the GAO found that the FTC's oil merger policies during the 1990's had permitted serial price gouging.

Two years ago, when the current FTC Chairman, Deborah Majoras, came before the Senate for confirmation, I asked her to respond to the GAO's report. Despite her promise to do so, I have yet to receive any response from Chairman Majoras.

The GAO is not alone in documenting how FTC regulators have been missing in action when it comes to protecting consumers at the gas pump. Since 2001, oil industry mergers totaling \$19.5 billion have been unchallenged by the FTC, according to an article in Bloomberg News. The article also reported that these unchecked mergers may have contributed to the highest gasoline prices in the past 20 years.

According to the FTC's own records, the agency imposed no conditions on 28 of 33 oil mergers since 2001.

You can see the results of the FTC's inaction at gas stations in Oregon and all across America. Nationwide, the GAO found that between 1994 and 2002, gasoline market concentration increased in all but four states. As a result of FTC merger policies, 46 States' gasoline markets are now moderately or highly concentrated, compared to 27 States in 1994.

The FTC, oil industry officials and consumer groups all agree that in these

concentrated markets, oil companies don't need to collude in order to raise prices. The FTC's former General Counsel William Kovacic has said that "It may be possible in selected markets for individual firms to unilaterally increase prices." In other words, the FTC General Counsel basically admitted that oil companies in these markets can price gouge with impunity. Mr. Kovacic is one of the two nominees for FTC Commissioner who is now before the Senate.

Despite all this evidence that gasoline markets around the country have become more concentrated and, in these concentrated markets, individual firms can raise prices and extract monopoly profits, the FTC has failed to take effective action to check oil industry mergers. In the vast majority of cases, the FTC took no action at all.

In addition to its inaction in merger cases, the FTC has also failed to act against proven areas of anti-competitive activity.

Major oil companies are charging dealers discriminatory "Azone prices" that make it impossible for dealers to compete fairly with company-owned stations or even other dealers in the same geographic area. With zone pricing, one oil company sells the same gasoline to its own brand service stations at different prices. The cost to the oil company of making the gasoline is the same. In many cases, the cost of delivering that gasoline to the service stations is the same, but the price the service stations pay is not the same. And the station that pays the higher price is not able to compete.

Another example of anticompetitive practices now occurring in gasoline markets is a practice known as "redlining." This involves oil companies making certain areas off-limits to independent gasoline distributors known as jobbers who could bring competition to the area.

The Federal Trade Commission's own investigation of west coast gasoline markets found that the practice of redlining was rampant in west coast markets and that it hurt consumers. But the FTC concluded it could only take action to stop this anti-competitive practice if the redlining was the result of out-and-out collusion, a standard that is almost impossible to prove in court.

In my home State of Oregon, one courageous gasoline dealer took on the big oil companies and won a multi-million dollar court judgment in a case that involved redlining. This dealer gave the evidence he used to win his case in court to the Federal Trade Commission. But the Federal Trade Commission the preeminent consumer protection agency in the Federal Government failed to do anything to help this dealer or reign in the anti-competitive practices at issue in his case.

In areas other than energy, the Federal Trade Commission has been a great consumer protection agency. It has not hesitated to move aggressively to act on behalf of consumers.

To give one example, the FTC created a "Do Not Call" program to prevent consumers from being hassled at home by telemarketers. With its "Do Not Call" program, the agency pushed to protect consumers to the limits of its authority and even went beyond what the courts said it had authority to do.

But in the case of energy, the FTC has a regulatory blind spot. And this has been true in both Democratic and Republican administrations. It's been a bipartisan blind spot that keeps the agency from looking out for gasoline consumers.

The FTC won't even speak out on behalf of consumers getting gouged at the gas pump. The agency won't use its bully pulpit to even say that record-high gasoline prices are an issue of concern, that they will be looking at closely.

The FTC's approach on gas prices has got to change. I'm not going to support the business as usual approach on energy we've seen for too long at the FTC. So, I have asked the Senate leadership for additional time to study the views of the two nominees to the Federal Trade Commission, Mr. William Kovacic and Mr. THOMAS Rousch. I just received detailed letters and other documents from each of them.

I have asked the leadership for time for consultation on these two nominations, as it is not my intent at this time to lodge a formal objection to a unanimous consent request to consider them. I will use the time between now and when the Senate returns in December to examine their records more carefully and reach a decision as to whether these individuals are committed to and will in fact work aggressively toward changing the culture of inaction at the FTC regarding consumer protection in the energy field.

#### TRIBUTE TO EARL LEE MONHOLLAND

Mr. GRASSLEY. Mr. President, I rise today to mark the loss of one of my staff members and to make a statement for The CONGRESSIONAL RECORD about the good work of this individual for the people of Iowa. Earl Lee Monholland died at home on October 31, 2005, due to heart illness, at the age of 37. Earl worked on my staff for 12 years as a constituent services specialist in Davenport, Cedar Rapids, and Washington, DC. He was a dedicated public servant who thoroughly enjoyed helping Iowans. He was committed to providing assistance in a responsive and timely manner and to making sure that whatever could be done got done behalf of a constituent having problems with the Federal bureaucracy. Earl also was an outstanding colleague to his fellow staff members, going out of his way to make things work for the entire team, especially with the computer systems. I greatly appreciate the fine work that Earl did during the last 12 years and the unassuming way he