Senator from Florida (Mr. MARTINEZ), the Senator from Arizona (Mr. MCCAIN), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Virginia (Mr. WARNER).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Vermont (Mr. JEFFORDS), the Senator from South Dakota (Mr. JOHNSON), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Ms. STABENOW) would vote ''yea.''

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

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 31 Ex.]

YEAS—88

Akaka	Dodd	Menendez
Alexander	Dole	Mikulski
Allard	Domenici	Murray
Allen	Dorgan	Nelson (FL)
Baucus	Durbin	Nelson (NE)
Bayh	Ensign	Obama
Bennett	Enzi	Pryor
Bingaman	Feingold	Reed
Bond	Feinstein	Reid
Boxer	Frist	Roberts
Brownback	Graham	Rockefeller
Bunning	Grassley	Salazar
Burns	Gregg	Santorum
Burr	Hagel	Sarbanes
Byrd	Harkin	Schumer
Cantwell	Hatch	Sessions
Carper	Inhofe	Shelby
Chafee	Inouye	Smith
Chambliss	Isakson	Snowe
Coburn	Kennedy	Specter
Cochran	Kerry	Stevens
Coleman	Kohl	Sununu
Collins	Kyl	Talent
Conrad	Leahy	Thomas
Cornyn	Levin	Thune
Craig	Lieberman	Vitter
Crapo	Lincoln	Voinovich
Dayton	Lott	Wyden
DeMint	Lugar	
DeWine	McConnell	

NOT VOTING—12

Biden	Johnson	McCain
Clinton	Landrieu	Murkowski
Hutchison	Lautenberg	Stabenow
Jeffords	Martinez	Warner

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a vote on the confirmation of Thomas E. Johnston, of West Virginia, to be United States District Court Judge for the Southern District of West Virginia.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, will the Senate advise and consent to the nomination of Thomas E. Johnston, of West Virginia, to be United States District Judge for the Southern District of West Virginia?

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Texas (Mrs. HUTCHISON), the Senator from Florida (Mr. MARTINEZ), the Senator from Arizona (Mr. MCCAIN), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Virginia (Mr. WARNER).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Vermont (Mr. JEFFORDS), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Michigan (Ms. STABENOW), are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Ms. STABENOW), would vote ''yea.''

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

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 32 Ex.]

YEAS—89

Akaka	Dodd	McConnell
Alexander	Dole	Menendez
Allard	Domenici	Mikulski
Allen	Dorgan	Murray
Baucus	Durbin	Nelson (FL)
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Obama
Bingaman	Feingold	Pryor
Bond	Feinstein	Reed
Boxer	Frist	Reid
Brownback	Graham	Roberts
Bunning	Grassley	Rockefeller
Burns	Gregg	Salazar
Burr	Hagel	Santorum
Byrd	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carper	Inhofe	Sessions
Chafee	Inouye	Shelby
Chambliss	Isakson	Smith
Coburn	Johnson	Snowe
Cochran	Kennedy	Specter
Coleman	Kerry	Stevens
Collins	Kohl	Sununu
Conrad	Kyl	Talent
Cornyn	Leahy	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Vitter
Dayton	Lincoln	Voinovich
DeMint	Lott	Wyden
DeWine	Lugar	

NOT VOTING—11

Biden	Landrieu	Murkowski
Clinton	Lautenberg	Stabenow
Hutchison	Martinez	Warner
Jeffords	McCain	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the Senate will vote on the confirmation of Aida M. Delgado-Colon, of Puerto Rico, to be United States District Judge for the District of Puerto Rico.

The question is, Will the Senate advise and consent to the nomination?

The nomination was confirmed.

The PRESIDING OFFICER. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

ORDER OF PROCEDURE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate now resume consideration of S. 2320, the LIHEAP funding bill, and that the Kyl amendment be temporarily set aside so I may offer a first-degree amendment. It is amendment No. 2898. I further ask that following my statement on the amendment, the Senate then proceed to a period for morning business, with Senators permitted to speak for up to 10 minutes each.

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

MAKING AVAILABLE FUNDS FOR THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM, 2006

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2320) to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes.

Pending:

Kyl/Ensign amendment No. 2899, to make available funds included in the Deficit Reduction Act of 2005 for allotments to States for the Low-Income Home Energy Assistance Program for fiscal year 2006.

AMENDMENT NO. 2898

(Purpose: To reduce energy prices)

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 2898.

Mr. INHOFE. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. INHOFE. Mr. President, this is simply what I have called the energy price reduction amendment. Each year proponents of LIHEAP funding complain that energy prices have increased and therefore more assistance is needed. Yet subsidizing high prices does nothing to lower prices. Increasing the funding for today's LIHEAP without acting to reduce the price of energy tomorrow is not an acceptable solution.

Home energy prices are excessively high because of two simple facts, two critical reasons: First, the demand for energy has increased along with the economic output. However, because natural gas is regarded as an environmentally preferable fuel, demand for natural gas has increased dramatically as more of it is used for electricity generation. We have gone through this with coal-fired plants. We have tried to have major advancements in clean coal technology, which we are doing right now. But right now, the one thing that is environmentally pure is natural gas and, for that reason, the demand is up. Second, with the rise in demand, the market should have responded with a corresponding increase in supply.

I have here a chart, and this is from the Energy Information Administration. Domestic production of natural gas has actually declined. Not many people understand this, that the supply has actually declined. So not only do we have an increase in demand, but the supply has reduced, as is pointed out in this chart. I want my colleagues to recognize that I am reporting clear facts. I am ignoring partisan rhetoric, relying on recognized, unbiased experts from the EIA, not from the New York Times, not from the industry representatives. The EIA's consumer guide, ''Residential Natural Gas Prices: What Consumers Should Know,'' states that:

One of the most significant factors why prices are so high is due to weak production, noting that production decreased by only .6 percent in 2004, declining below the 2002 level and reaching the lowest production levels since 1999.

The fact is that demand has increased and production levels have not. As a result, our constituents—the very same residents desperate for LIHEAP assistance—are facing artificially high natural gas prices.

This chart is from the EIA. It illustrates how much residents of each of our States are paying for natural gas. Now I would encourage my colleagues to look and see what it is, and look at one of the higher elevations. It is from $16 in those regions there, all the way down to—I can't read it from here, but you can see it. It is such a disparity as you go around the Nation, and I think people need to know what their constituents are being forced to pay.

EIA data has shown that production of natural gas has decreased dramatically. The National Petroleum Council, which is a nonpartisan entity charged by the Secretary of Energy, concluded that significant gas resources were effectively off limits for various reasons.

The American Gas Association, a strong supporter of increased LIHEAP funding, came to the same conclusion. Both entities called for a better, more efficient process for producing natural gas.

My amendment provides a more certain process for energy-related decisionmaking on public lands. It requires the Secretary to act on an energy-related application within 120 days. If the application is not approved, then the Secretary must inform the applicant as to the reasons and allow the applicant to modify its application.

What is happening here is that these applications to produce on these lands, public lands, sit there and there is never any decision. Certainly it should be shorter than 120 days, but that should be adequate.

Further, it clarifies existing practice and requires that a reviewing court accord a rebuttable presumption to the Secretary's determination that an energy project as mitigated does not have a significant environmental impact. The recently enacted Energy bill included significant energy efficiency improvements. In fact, it included so many that EIA modified its energy projections in some ways to incorporate the new law.

My amendment would improve natural gas efficiency through the EPA's Natural Gas Star Program. This is a good program. It works, and it is being voluntarily complied with. Under my language, the EPA would be authorized to provide grants to identify and use methane reduction technologies, and the Administrator would be required to conduct a series of methane emission reduction workshops in oil and gas-producing States. The less gas that is leaked means more gas is available to consumers. It is a no-brainer.

The lack of sufficient domestic refining capacity has received significant media attention. The public understands that tight capacity translates to higher prices of motor fuels.

Yet some LIHEAP proponents might not realize that home heating oil, which the Northeast desperately needs, as you can see on this chart, is a middle distillate along with diesel fuel. Therefore, according to the Congressional Research Service:

Because the residential and transportation sectors are in potential competition for the same part of the barrel, any unusual circumstances affecting the price and supply of one of these fuels affects the supply and price of the other.

Increasing refining capacity not only lowers the price of motor fuels but reduces the price of home heating oil as well.

Although States have a significant role in permitting existing or new refineries, they face particular technical and financial constraints when faced with these extremely complex facilities. It wasn't long ago that I authored the Gas Price Act, and it was one that never even made it out of my committee. Yet it would have dramatically reduced the cost of refining. Right now we are at 100-percent refining capacity in America. Yet nothing is being done about it. Quite frankly, those individuals who are feeling the heat the most, who are not getting the heat the most in the Northeast are the ones who objected to the Gas Price Act.

This amendment does not have the same provisions as the Gas Price Act; it merely establishes a Governor opt-in program that requires the EPA Administrator to coordinate and concurrently review all permits with the relevant State agencies. This program does not waive or weaken the standards under any environmental law that seeks to assist States and consumers by providing greater certainty in the permitting process.

In fact, the Environmental Council of the States—an organization representing the State environmental directors—stated in a letter of support for similar language that the language:

Does not weaken the standards and allows each State to choose its best course.

This improved process does more than just increase the process for production of heating oil; it also redefines one's idea of a refinery. My amendment provides Federal assistance to States for the permitting of ethanol plants or bio refineries, as well as facilities to produce ultraclean diesel or jet fuel from coal.

Assisting the expansion of bio refineries and coal-to-liquids facilities provides even more slack in the system that will lead to lower home heating oil prices in the future.

In its consumer guide, EIA points out that prices could even increase if there were disruptions to liquefied natural gas pipeline delivery systems, two very real points, especially to my friends in the Northeast. Keep in mind that if you divide the country up into sectors, the Northeast uses 31 percent—31 percent of the people residing in the Northeast use home heating oils, that in contrast with the Midwest, 3.2 percent; the South, 2.1 percent; and the West, 0.7 percent. That is a huge disparity. They are the ones who are opposing the various things that we can do to refine the home heating oils as well as diesel fuel.

Something has to be done. You can't say we want to have cheaper energy, we want to have a LIHEAP program to make it more affordable for people in the Northeast, and yet the legislators in the Northeast oppose consistently any major changes in our refining capacity. As I said, we are already 100-percent refining capacity now, and that was before Katrina, I might add.

On the subject of liquefied LNG, I was astonished to learn that two members of the Massachusetts House delegation inserted a provision in the transportation bill in the dark of the night—I know this, I was the author of that bill—it happened in the middle of the night before it was taken up the next morning, to the detriment of the Northeast region. They slipped in a provision that blocks the construction of an already approved LNG terminal by maintaining an old bridge scheduled for demolition because it has been classified as a navigational hazard. This short-sighted stunt by a few Members means that the Northeast region will be deprived of supply that would reduce wholesale natural gas prices by up to 20 percent—up to 20 percent. It was an LNG already accepted terminal in Massachusetts.

My amendment repeals that offensive provision so harmful to the entire Northeast. Bipartisan Members of this body, from the senior Senator from Maine to the senior Senator from New York, interested stakeholders from the AARP to the National Conference of Black Mayors, have all expressed their concern over how high energy prices are hurting their constituents.

Members, voting for this amendment means you are voting to lower those prices. A vote for this amendment means you are voting to help the LIHEAP beneficiaries. This is something that makes so much common sense and something that is hard to understand here in Washington, DC. We

have to do something about increasing the supply of natural gas as well as home heating oils through the refining capacity as well as doing something to affect the supply.

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The Senator from Iowa.

HONORING A. ERNEST FITZGERALD

Mr. GRASSLEY. Mr. President, a patriotic civil servant is going home. Mr. A. Ernest Fitzgerald has finally called it quits. His 42-year career, including Navy service in World War II, came to a close on Friday, March 3. He has walked out of the Pentagon for the last time. He has retired.

Although Mr. Fitzgerald's first name is Arthur, most of us know him fondly under the name of Ernie. Ernie is probably the most famous whistleblower of all time, and I think of him as the father of all whistleblowers, the chief whistleblower. He set an example for all of the whistleblowers who have followed in his footsteps.

Ernie is a man of great courage and integrity.

I dreamed for a long time that someday some duly certified whistleblower would be honored by a President, even this President, at a Rose Garden ceremony. Ernie is a perfect candidate for such a Rose Garden ceremony, but I don't think that he is going to get that honor. It may never happen. At least it may not happen in my lifetime. But of course I believe it should happen because that would be the right thing to do, to send a signal from the highest levels of Government all the way to the bowels of the bureaucracy that patriotic people who are willing to blow the whistle on something that is wrong in Government would be honored for being that patriotic person.

Courageous souls such as Ernie Fitzgerald make our Nation and our Government stronger and better. They help to strengthen and keep the public trust. They help to make the Government transparent and accountable, and that is exactly what the citizens of this country want and what the citizens of this country ought to expect.

That is why we must always help whistleblowers such as Ernie Fitzgerald. Being a whistleblower is a tough business. They need our constant support and protection because within the bureaucracy they are treated like a skunk at a picnic. Those, such as Ernie, who have stepped forward and put their careers and reputations on the line in the defense of truth in Government deserve the highest honor.

Ernie did not make it to the Rose Garden, but he got pretty close. He got the next best thing. He left the Pentagon with his dignity and honor intact.

In a moment I want to explain how that happened. But first I wish to speak briefly about what Ernie did because he was always a source of inspiration to this Senator. Early in my Senate career, I heard about Ernie Fitzgerald. His work convinced me that I needed to get involved in oversight, generally, and at that time specifically oversight of the Defense Department, oversight of the Pentagon. Ernie's work, along with that of a person by the name of Chuck Spinney, was a huge contribution. They were the inspiration behind my historic amendment to freeze the Defense budget that was approved by the Senate in May of 1985. Ernie was the inspiration behind my efforts to put the brakes on the spare parts overpricing.

Ernie was also the inspiration behind my efforts to expose and clean up the Department of Defense books of account and broken accounting practices. Ernie was the inspiration behind so many whistleblower protection laws that are now on the books.

Ernie's unwavering devotion to saving the taxpayers' money has always been an inspiration to this Senator. Ernie never lost sight of this lofty and honorable goal, not for one second. And he would pursue it to the end of the Earth, if that is where it took him. To Ernie, saving the taxpayers' money was never just a goal. It was much more than that. It was more like a calling to him. It was a matter of faith to him, keeping faith with the taxpayers, stopping waste of taxpayers; money was a religion to Ernie Fitzgerald.

Ernie had fellowship with the taxpayers.

He did everything in his power each day to ensure that not a penny was wasted and every cent was properly accounted for.

Ernie followed his calling in a place called the Pentagon—not exactly what I would call a taxpayer-friendly environment. That is the place that the world's most powerful generals and admirals call home. And the generals and admirals never looked kindly on the likes of a whistleblower named Ernie Fitzgerald. But that didn't phase Ernie one bit.

The Pentagon brass is praising him today as he leaves the Pentagon for good, but they hammered him relentlessly for what he was and for what he did. The Pentagon is the place where Ernie dug in his heels, took his stand, and kept the faith.

The most fateful day in the life of Ernie Fitzgerald was November 13, 1968. That was the day Erie appeared before Senator Proxmire's Joint Economic Committee to testify on the C–5 transport aircraft program. He was an official witness of the U.S. Air Force. And Ernie did the unthinkable—he ''committed truth.'' He told the Congress about a $12 billion C–5 cost overrun. Back then, $2 billion was real money.

Ernie's truthful testimony about the C–5 cost overrun created a firestorm of controversy, and that is what caused President Nixon to issue his famous order caught on those famous tapes. The quote was: ''Get rid of that SOB.'' For speaking the truth, Ernie paid the ultimate price: He got fired, he got blackballed, and he was put on the official hit list. His career was over. And that was November 13, 1968. For speaking the truth—that is what it was all about, just speak the truth—about a $2 billion cost overrun on an airplane that somehow people wanted to cover up. As most of us know, though, Ernie got his job back, but it took him 12 years to get his job back. That is how much whistleblowers are appreciated in the bureaucracy at the Pentagon, or anyplace else. And when he did get it back, it was not given back willingly; it had to be taken back. It took a court order signed by U.S. District Judge William B. Bryant on June 15, 1982. That is 14 years after he appeared to talk about the C–5 $2 billion cost overrun.

Judge Bryant's order made Ernie the Management Systems Deputy of the Air Force. It was a high-sounding title with far-reaching responsibilities. On paper, it looked like a perfect fit. Unfortunately, Ernie was never given the authority to perform the job specified in the court order. The ''over-dogs,'' as Ernie Fitzgerald called them, effectively isolated him then and the 25 years since. As far as I know, the only time Ernie was able to do his job was when he was officially detailed to my staff for short periods of time.

The last such project was 1997–1998 when Ernie worked with my staff on what we called the Joint Review of Internal Controls at the Defense Department. He and my staff examined several hundred invoices from an office in the Pentagon where fraud had occurred. They followed those invoices step by step through the entire cycle of transactions from purchase order to payment by the Treasury. They found overpayments, underpayments, erroneous payments, and even potentially fraudulent payments. No one payment had been done correctly.

One of the biggest problems uncovered had to do with ''remit'' addresses. Remit addresses are so important because that is where the money goes. The staff found people who were handling invoices and paying bills also had authority to put addresses on checks going out the door. That was a major violation of the separation-of-duties principle. It left the door wide open to fraud.

Ernie helped us close that door.

Despite constant bureaucratic roadblocks, Ernie went to his cubbyhole-