

gallon gasoline. And in particular, I am concerned that all of the evidence showed that this spring we would have these problems.

The administration, for example, has given Congress a variety of reports about how post-Katrina we would have evidence of a supply problem. With respect to the changeover from MTBE to ethanol, all the evidence was available many months ago. The Wall Street Journal was warning about it—that there would be huge logistical problems for service stations and others to make that changeover.

We know that ethanol—and the Senator from Illinois has been one of the leaders in this effort—is going to play an important role in America's gasoline future. Given that, this should have been an all-hands-on-deck approach at the administration trying to watchdog the transition from MTBE to ethanol. This is an administration with enormous expertise in the oil area. For all practical purposes, this is an administration that is almost marinated in oil. One official after another has a history and a background in this sector. Yet where was the Department of Energy? Where was the Environmental Protection Agency? Where was the Commodity Futures Trading Commission at a key time in our country's energy future?

With all the problems overseas—Nigeria, Venezuela, and Iraq producing a tiny fraction of what they were able to produce before the war—we knew that this was going to be a difficult time this spring.

I talked to a gasoline station owner last night. I pulled up and was faced with the prospect of \$3.25 a gallon. That station owner said: Nobody gave us any information at all about how to proceed in this significant switchover from MTBE to ethanol.

They have to clean their tanks. There are tremendous logistical problems and a different role for transportation with respect to trucks and rails versus pipelines. Normally, you would have taken a much longer period of time to make this changeover. That wasn't done.

So the administration should have been there working with the service station owners and the oil companies and a variety of parties to try to minimize the problems when you are having this massive transition in the energy area. So we are going to see instances where people try to exploit the situation. I hope we can get the Federal Trade Commission off the dime and finally go out and take the steps to protect the public from this exploitation.

It was known a year ago that this was a time when we would have a perfect energy storm. We knew we were going to have the equivalent of what amounts to a level 5 hurricane in the gasoline market. Yet the folks in the administration sat on their hands. It did not have to be that way.

I want to work in a bipartisan way to turn this around. Unfortunately, the

same kind of bumbling and bungling approach that was taken in responding to Hurricanes Katrina and Rita has driven our gasoline prices over \$3 a gallon. We ought to come together. I recommended yesterday in a lengthy speech a variety of steps we could take in the short term—for example, helping the States to make this transition to ethanol easier. We can do it in a bipartisan way. If it were not for the bungling of this administration over the last year and its failure to take the steps that could have prevented much of what we have seen, we would not have to come to this point. That is unfortunate. The American people have been gratuitously hammered again. It didn't have to be.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I have been listening to the debate in the Senate. Senator CORNYN is going to respond in a little more detail. Honestly, it is very important we address the energy issue in a way that suggests what we can do. The people of America are not interested in Democratic charges against Republicans and Republican charges against Democrats. They want more resources so the price of gasoline at the pump will come down.

In my hometown of Dallas, there are shortages now in addition to the high prices. We need to do some things that diversify our resources so we depend on our own resources for oil and natural gas. That means drilling for oil in our country and trying to make sure we have conservation and alternative sources of energy, which is exactly what Congress has been trying to do. We have been held up in doing it.

I appreciate very much this opportunity. I am very pleased to work with my colleague, Senator CORNYN.

Mr. CORNYN. Mr. President, I will use a few minutes to respond to some of the voices that have been raised regarding the fuel prices. Of course, this is an issue that affects everyone. It is ironic that those who have railed the loudest against high gasoline prices are the ones who indeed are responsible for obstructing rational energy policy in this country that would bring down the price of gasoline itself.

For example, we all know that the global competition for oil and gas is greater with the industrialization and growth of countries such as China, with 1.3 billion people, with the growth and industrialization of countries such as India. But notwithstanding the need to diversify our energy sources to nuclear energy and use the 300 years of coal we have in this country in a clean and environmentally sensitive way, we have been met with nothing but obstruction when it comes to trying to both diversify our energy sources and to undertake policies that would literally bring down the price of gasoline at the pump.

It is no secret the single greatest factor in high gasoline prices is high oil prices. We have simply been denied

every opportunity we have tried to undertake to expand domestic production at home by exploring places such as the Arctic Wildlife Refuge in an environmentally responsible way and drilling offshore in America in a way that can preserve both the environment but also increase the supply of oil and help bring down the price of gas.

Congress can do a lot of things, but we cannot repeal the laws of supply and demand. Without additional supply, we know with additional demand, prices will continue to go up. Because of obstruction and unreasonable regulation we have not seen a new refinery built in this country in the last 30 years.

Our time would be used more productively if our colleagues across the aisle would work with us to diversify and expand the sources of domestic energy so we can help bring down the price at the pump. It would be much more constructively used if we work together rather than attempting to score political points and to place the blame in a political season.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF GRAY HAMPTON MILLER TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for consideration of Calendar No. 602, which the clerk will report.

Under the previous order, there will be 5 minutes for the Senator from Texas.

The bill clerk read the nomination of Gray Hampton Miller, of Texas, to be United States District Judge for the Southern District of Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I take this opportunity to talk about Gray Miller. Senator CORNYN and I are dividing this time because we are both responsible for nominating this incredible person to serve on the Federal district bench from the southern district of Texas in his hometown of Houston.

Senator CORNYN and I have a process. We have a committee made up of Republicans and Democrats, geographically diverse, lawyers respected in their fields, who interview all of the nominees for Federal benches. There were quite a few nominees, probably 15 to 20, for this particular bench. They rank them. Senator CORNYN and I then talked to the top 3 or 4 nominees. It has been a great system. We have gotten extremely qualified judges on the

district benches in Texas doing it this way.

I appreciate the input of Senator CORNYN, a member of the Judiciary Committee, because he has been attorney general of Texas. His input is very valuable and our system has produced a quality judge in Gray Miller.

Gray Miller is a senior partner at Fulbright & Jaworski. Gray has headed the firm's admiralty department, starting in 1997. In fact, he is widely considered one of the leading maritime lawyers in the world and was included in Euro's Money Guide to the world's leading maritime lawyers. Included in his many professional honors are accolades as a Texas superlawyer by Texas Monthly Magazine and recognition as one of the best lawyers in America.

Gray Miller is one of the most honorable, hard-working Americans I have ever known. From 1969 to 1978 Gray worked his way through undergraduate and law school as a Houston police officer. He and his wife raised their two children during this time. While he has obtained exceptional skills and qualifications as a lawyer and with the admiralty specialty, which is a big part of the practice in Houston, his experience of serving as a Houston police officer brings a unique perspective to the Federal bench.

He was appointed by the Governor of Texas to serve on the board of the Texas Department of Mental Health and Retardation. He is a lifetime member of the 100 Club of Houston, an organization that assists the families of police officers and firefighters who are killed or injured in the line of duty.

I am honored to recommend Gray Miller. He meets the high standards to which we hold all judicial nominees. He has an impressive record of service. He has great judicial temperament. He shoots straight. He has an experience that is so diverse, from being an on-the-ground police officer who is dealing with the criminal aspect in our society—we do not have enough people with that background on the Federal bench—to admiralty, which is an intellectual contract, and international law, part of the responsibility in the southern district of Texas.

With this array of experience and the integrity he holds, we have an outstanding nominee. I urge all of my colleagues to support the nomination of Gray Miller.

I yield the floor.

Mr. CORNYN. Mr. President, I join my colleague, Senator HUTCHISON, in commending to our colleagues this fine nominee to the U.S. District Court for the Southern District of Texas. Soon-to-be-Judge Miller will succeed Judge Ewing Werlein, who assumed senior status early this year.

I add to all of Mr. Miller's outstanding credentials my recognition and our appreciation for Judge Werlein's service to his Nation and the legal profession during his time on the bench.

First, I thank the chairman of the Judiciary Committee, Senator SPEC-

TER, as well as the ranking member, Senator LEAHY, for working with Senator HUTCHINSON and me to fill the important vacancy in the Houston Division of the Southern District of Texas.

Mr. Miller has been nominated to fill the vacancy created when Judge Ewing Werlein assumed senior status earlier this year. Judge Werlein has served his country and the legal profession admirably, and I commend him for his dedicated service.

The Houston division is one of the most important and diverse in the entire Federal judiciary as it is responsible for some of the Nation's most complex, notable commercial disputes and criminal prosecutions. It is crucial that we fill this vacancy quickly and I thank the committee for their vote to bring Mr. Miller's nomination to the Senate floor.

When I consider nominees for the Federal bench, there are certain characteristics that I value. In fact, I believe that many of my colleagues also appreciate these same characteristics. First, nominees usually have a notable history of public service. In addition, nominees are often well-respected by their peers and have impeccable academic and/or professional records. Last, nominees usually have a long and distinguished history of civil involvement. Mr. President, Gray Miller possesses these traits.

Mr. Miller has the necessary qualifications to serve on the Federal bench. He has been a long-time partner in the distinguished Texas law firm of Fulbright and Jaworski. He has excelled at the practice of law and is well respected within the legal profession for his knowledge of admiralty and maritime law. This nominee also enjoys the support of the American Bar Association which has certified him as well-qualified after a thorough review of his credentials.

Furthermore, he devotes a substantial amount of his time to public service. Most notably, he spent 9 years as a Houston police officer, working his way through his undergraduate and law degrees. Now, as a private practice attorney, he supports a variety of public service initiatives, including the Houston Volunteer Lawyers Program and Habitat for Humanity. He also previously has served on the board of trustees of the Mental Health/Mental Retardation Authority of Harris County and on the board of the Texas Department of Mental Health and Mental Retardation. He and his wife actively support Houston schools for students with learning disabilities and drug and alcohol problems. His devotion to the greater Houston community is commendable.

From a congressional page in 1965 to a police officer in the 1970s to an accomplished trial advocate, Mr. Miller understands and respects the role of our three branches of government. He has an unfailing respect for the judiciary and the jury system. It is with this understanding that I believe Mr. Miller

will serve his country honorably as a Federal district court judge should—by interpreting and applying the law and adhering to established precedent.

I am pleased that President Bush has nominated Gray Miller to serve on the court of the Southern District of Texas. I look forward to his service on the Federal bench in the Great State of Texas. I ask my colleagues to support his nomination.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Gray Hampton Miller, of Texas, to be United States District Judge for the Southern District of Texas? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Louisiana (Mr. VITTER).

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. KOHL), the Senator from Illinois (Mr. OBAMA), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye."

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

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 93 Ex.]

YEAS—93

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

NOT VOTING—7

Dayton	Kohl	Vitter
Jeffords	Obama	
Kerry	Rockefeller	

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 4939, for debate only, until 2:15 p.m.

The clerk will state the bill by title.

The bill clerk read as follows:

A bill (H.R. 4939), making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes.

The Senate proceeded to consider the bill, which was reported by the Committee on Appropriations, with an amendment.

[Omit the part shown in black brackets and insert the part shown in italic.]

H.R. 4939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—GLOBAL WAR ON TERROR SUPPLEMENTAL APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

[For an additional expenses for "Public Law 480 Title II Grants", during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, \$350,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 2

DEPARTMENT OF DEFENSE

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

[For an additional amount for "Military Personnel, Army", \$6,506,223,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, NAVY

[For an additional amount for "Military Personnel, Navy", \$1,061,724,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, MARINE CORPS

[For an additional amount for "Military Personnel, Marine Corps", \$834,122,000: *Pro-*

vided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, AIR FORCE

[For an additional amount for "Military Personnel, Air Force", \$1,145,363,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, ARMY

[For an additional amount for "Reserve Personnel, Army", \$166,070,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, NAVY

[For an additional amount for "Reserve Personnel, Navy", \$110,412,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, MARINE CORPS

[For an additional amount for "Reserve Personnel, Marine Corps", \$10,327,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, AIR FORCE

[For an additional amount for "Reserve Personnel, Air Force", \$1,940,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, ARMY

[For an additional amount for "National Guard Personnel, Army", \$96,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, AIR FORCE

[For an additional amount for "National Guard Personnel, Air Force", \$1,200,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

[For an additional amount for "Operation and Maintenance, Army", \$18,380,310,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

[For an additional amount for "Operation and Maintenance, Navy", \$2,793,600,000: *Provided*, That up to \$75,020,000 shall be available for the Department of Homeland Security, "United States Coast Guard, Operating Expenses": *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, MARINE CORPS

[For an additional amount for "Operation and Maintenance, Marine Corps", \$1,722,911,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR FORCE

[For an additional amount for "Operation and Maintenance, Air Force", \$5,328,869,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

[For an additional amount for "Operation and Maintenance, Defense-Wide", \$3,259,929,000, of which—

(1) not to exceed \$25,000,000 may be used for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom;

(2) not to exceed \$10,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes;

(3) not to exceed \$1,200,000,000 to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: *Provided*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph; and

(4) not to exceed \$44,500,000 for Cooperative Threat Reduction:

[*Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, ARMY RESERVE

[For an additional amount for "Operation and Maintenance, Army Reserve", \$100,100,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, NAVY RESERVE

[For an additional amount for "Operation and Maintenance, Navy Reserve", \$236,509,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.