

enough protection. A small increase in the tax on tobacco to pay for the children certainly seems reasonable. Stem cell research, we passed that. On ethics and lobbying, we passed the most significant reform in the history of the country, which is now law. The 9/11 Commission recommendations, there was a lot of talk about those recommendations. They were not put into law until we did it this year. We did it because it was the right thing to do. We reauthorized FDA. We passed WRDA—which is years and years past due—by a huge bipartisan vote.

Everything I have talked about has been bipartisan, even the votes on Iraq. We could not get 60 votes, but we had bipartisan support on Iraq. We all acknowledge we can do better. Certainly, we can do better. But I don't think we should lament the fact that we have not been able to do everything everyone wants done.

With the Attorney General nominee, Judge Mukasey, a problem has arisen with that nomination. It seems like we are in the "Twilight Zone." We are in the Senate talking about whether waterboarding is torture, and this man cannot acknowledge whether waterboarding is torture. I read this morning in the newspaper the reason he cannot do that is he is afraid if he says waterboarding is torture, it may create criminal or civil responsibilities for some of the people who did torture people through waterboarding. We are the United States of America, and we are concerned about talking openly about torture?

I read a book a couple of years ago. The name of the book is "1492." It talked about how our world changed in 1492. One of the reasons it changed is the Inquisition. It started in 1492, the same time Columbus discovered this Nation, this world. In 1492, they also discovered waterboarding, how to torture people, mostly Jews but not all Jews. Some Christians who were not Christian enough were waterboarded.

Maybe we will work our way through Mukasey, but no one should be concerned about the fact that we have an obligation and a right to talk about torture. Shouldn't we know where the chief legal officer of this country, the Attorney General of the United States, stands on waterboarding, on torture generally?

I look forward to our having a good day today and accomplishing a lot. We don't have a lot of time left in this legislative session. We have at the most about 6 weeks, but I hope during that period of time we continue to work together for the American people. That is what the American people want.

Mr. McCONNELL. Mr. President, let me briefly add, it is not too late for this first session of Congress to achieve a better record. We need to get appropriations bills not just sent to the President but signed by the President. We need to get the AMT fixed so we don't inconvenience, to the tune of \$75 billion, millions of American tax-

payors. We need to provide bridge funding for our troops that we all know is needed. And we need to confirm an Attorney General. Our colleagues on the other side have been saying we need a new Attorney General all year long. Now it is time to do it.

The record of this first session of this Congress is not yet made. It is not too late, but it is getting very late, and hopefully we will accomplish a lot in the next 6 weeks, as the majority leader has indicated he would like to see done.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, the distinguished Republican leader is absolutely correct. We have to fix AMT, and we will do that. The reason we have been a little slow in doing so is how we are going to pay for it. Being an appropriator for my years in Congress, I certainly want to do that. We have struggled over the last several years doing appropriations bills.

The Republican leader and I believe appropriations bills should be done, and we have to do them this year. I am going to devote a lot of my energy—the meeting I had just before coming to the Chamber was dealing with appropriations bills. I had a good conversation with the Republican leader yesterday about appropriations bills generally.

He is absolutely right. We can do better. I will certainly attempt to do my share and do a better job.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to a period for the transaction of morning business for 60 minutes, with Senators permitted to speak for up to 10 minutes each, with the first 30 minutes under the control of the Republicans and the final 30 minutes under the control of the majority.

The Senator from North Carolina.

NATIONAL GUARD AND RESERVISTS FINANCIAL RELIEF ACT

Mrs. DOLE. Mr. President, I ask for all of my colleagues to join me in support of Senate approval of the National Guard and Reservists Financial Relief Act. This is a bipartisan effort to extend a critical benefit to our National Guard and reservists, many of whom are serving in Iraq and Afghanistan. Section 827 of the Pension Protection Act of 2006 allows guardsmen and reservists called to active duty for at least 6 months to make penalty-free early withdrawals from their IRA, 401(k), or 403(b) retirement accounts. This provision expires in less than 2 months, and my bill would make this benefit permanent for our servicemembers and their families.

Our guardsmen and reservists always stand ready to put their lives on hold and answer the call of duty. They can

face lengthy deployments that can cause major financial strains for their families, which only adds to the emotional stress these families face during extended separation from a loved one. In fact, according to a GAO report, nearly 41 percent of reservists are affected by a pay discrepancy between their military and civilian salaries.

National Guard and reservists account for approximately half of all U.S. military personnel. Since September 11, 2001, more than 443,000 guardsmen and reservists have been deployed in support of the global war on terror, including nearly 93,000 currently deployed mainly to Iraq and Afghanistan. Congress should take decisive action to ensure that this benefit does not expire for these fine young men and women should they find themselves in a deployment-related financial crunch.

The Reserve Officers Association strongly supports the continuation of this tax relief measure. I also thank my colleague, Senator LINCOLN, for cosponsoring this legislation, and I add that a similar provision included in the Pension Protection Act received broad bipartisan support.

Shortly, Congress will adjourn for 2 weeks for the Thanksgiving recess. This means there is limited opportunity to act to extend this assistance to those who have answered the call to serve. I ask every Member who I know cares about our Guard members, reservists, and their families to support my legislation that this important benefit continues.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

TAX FAIRNESS

Mr. ALEXANDER. Mr. President, I wish to say a word about tax fairness. Last week, I joined Senator HUTCHISON, who has been the leader on this issue, Senator CORNYN, and Senator CORKER from my home State of Tennessee in introducing S. 2233. Our goal with that legislation is to make the State and local sales tax deduction permanent.

As a former Governor, I know States and cities have many different ways to raise revenues to support the services they provide. States usually provide about half the funding for elementary and secondary education. They are the principal funder of community colleges and universities. They pay for a good part of the roads and all the prisons. So most States have pretty big bills to pay, and they have a variety of taxes to raise the money to pay for those bills. Some States levy an income tax. Some use a sales tax. Some use a combination of the two. Some use some other taxes.

In Tennessee, we have had a pretty good debate about this issue, and we have decided we don't want an income tax. I looked at the options myself when I was Governor in the mid-1980s and considered an income tax for Tennessee but decided it would be the

wrong thing to do, to put a tax on work. We have done pretty well with low taxes and without an income tax.

Americans who pay State and local income taxes are able to claim a deduction for those amounts on their Federal income tax, and before 1986, taxpayers also had the ability to claim a deduction on their State and local sales taxes. But this deduction for State and local sales taxes was repealed in 1986.

Congress temporarily reinstated that State and local sales tax deduction for 2004 and 2005 and then extended it again for 2006 and 2007. I was a part of the effort in this Chamber to do that. It was a bipartisan effort. So taxpayers today who itemize on their Federal income tax returns can deduct either State and local sales taxes or State income taxes. Yet, unless Congress takes further action, this sales tax deduction will expire at the end of December of this year.

This is not about cutting taxes; this is about tax fairness. It is not fair for States without income taxes to subsidize tax deductions for States with income taxes. Why is it our business in Washington, DC, to prefer an income tax in the various States?

Nine States, including Tennessee, do not impose a State income tax. They are Alaska, Florida, New Hampshire, Nevada, South Dakota, Tennessee, Texas, Washington, and Wyoming—States from across the country, some big States, some middle-size States, some of our smallest States. These States shouldn't be treated differently. If Congress doesn't act, they will be by the end of December 2007.

I am here today to urge this body to make permanent the deduction for State and local sales tax. At the very least, we need to temporarily extend the deduction, as we have done in the last two Congresses, before it expires on December 31 so that taxpayers in those nine States are not forced to pay an unfair share of taxes.

We are talking about large amounts of money. Nearly 600,000 Tennesseans itemized their taxes and claimed the State and local sales tax deduction last year. This benefit put an average of \$400 in the pockets of hard-working Tennesseans. Therefore, losing this deduction would cost Tennesseans nearly a quarter of a billion dollars right out of their pockets each year.

Extending the State and local sales tax deduction is the fair thing to do, and it is the right thing to do. I urge my colleagues to join Senator HUTCHISON, Senator CORNYN, Senator CORKER, and me in enacting S. 2233 before the end of the year.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, I also rise today to speak regarding S. 2233. I am always honored to be in the presence of our senior Senator from Tennessee. I am honored to follow him today talking about the same topic.

One of the great points about our country is that we are set up in a manner that we allow States to choose how they govern on issues relating to the way they tax their citizens. As Senator ALEXANDER just stated, in the State of Tennessee, we have decided, after a tremendous amount of debate over decades, that we like being taxed through a sales tax.

As you know and as was just stated, Americans all across the country who are in States where they have an income tax or payroll tax are able to deduct that from their Federal income taxes. Again, in order to continue to support the fairness of the way we treat States, certainly those who choose to use a sales tax to raise revenues for roads and schools and want to leave it in the hands of their citizens to decide how much they pay in income tax, those States ought to be allowed to deduct those taxes from their Federal income taxes.

This is an issue of fairness. This absolutely is an issue of fairness. I hope today—we have introduced a bill, as Senator ALEXANDER stated—to convince other Senators that this is an issue of fairness and that they should support this bill which will permanently allow the nine States that today use a sales tax as a way of raising revenues for their States to be able to deduct those taxes.

As was mentioned, 11.2 million Americans across our country took a sales tax deduction last year. Mr. President, 600,000 Tennesseans took that deduction, and it saves Tennesseans about \$400 a year.

Since much has already been said, I close my comments again urging Senators on both sides of the aisle to support this bill which indicates fairness for all Americans.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, the leadership targeted November 16 for adjournment of this session of Congress, although I think we all believe that is a little overly optimistic. Regardless, I am concerned that as of yet, we have not considered an annual tax-extender package containing an extension of a number of very beneficial tax provisions. I am pleased to join with my colleagues to discuss the need to address many beneficial tax-extender provisions.

I wish to highlight two tax provisions of particular interest to me that Congress has annually extended, one ever since 1991 and one since 1993, and they particularly benefit oil and gas development from marginal wells and depreciation. Specifically, these two tax provisions are the suspension of the net income limitation on percentage depletion allowance for marginal oil and gas proceedings and accelerated depreciation for assets in Indian Country.

The United States has approximately 457,000 marginal wells. That is a huge number. A marginal well is one that produces 15 barrels or less a day. A lot

of these wells are located in my State of Oklahoma. They collectively produce about 1.2 million barrels per day of annual production. These wells account for nearly 20 percent of the total oil production in the United States, about the amount we are importing from Saudi Arabia.

People do not understand the significance of marginal wells. They cost a lot more to produce—marginal wells. These are shallow wells. They are not profitable like the deep wells in some parts of the country. But when you add them all up, it means this production equals as much as we are currently importing from Saudi Arabia. So it is very significant.

In my State of Oklahoma, it is the small independents—basically the mom-and-pop operators—that are producing the majority of oil and natural gas, with 85 percent of Oklahoma's oil coming from marginal wells—again, that is 15 barrels or less a day. Because marginal wells supply such a significant amount of our oil and gas, it is vital we keep them in operation. However, according to the Department of Energy, between 1994 and 2003 the United States lost 110 million barrels of crude oil due to the plugging of marginal wells.

A lot of people not familiar with the industry think you can always unplug a well. You can't unplug a well. Once you plug it, it is gone. Thus, when we lose marginal well production, we become more dependent upon foreign sources of energy and more dependent at a time when I think almost all of us in here agree that U.S. policy should encourage reliance upon domestic sources. Furthermore, we lose domestic jobs to foreign nations.

If the current suspension of the net income limitation on percentage depletion allowance expires, U.S. production from our marginal wells would be severely hampered. Percentage depletion is a form of cost recovery for mineral and leasehold acquisition costs. The percentage depletion rate for oil and gas is 15 percent of the taxpayer's gross income from a producing property. It used to be closer to 30 percent. It should be higher than 15 percent, but that is where it is today. Only independent producers and royalty owners are able to utilize percentage depletion.

Under the net income limitation, percentage depletion is limited to 100 percent of the net income from an individual producing property. In the case of marginal wells, where total deductions and expenses often exceed gross income, this limitation discourages producers from investing in the continued production for marginal wells with high operating costs and low production yields.

Without the full utilization of the percentage depletion allowance, the net income limitation actually encourages producers to plug and abandon production of marginal wells. Then, of course, as I said before, you have lost them forever.

Congress has, on a temporary basis, suspended the net income limitation since 1997. The current suspension expires at the end of this year. The extension of the suspension of the net income limitation will allow independents the necessary capital to continue to produce from these existing marginal wells, which is critical to the Nation's overall energy security.

Now, additionally, Congress made a special economic incentive available to benefit Indian Country under the Omnibus Budget Reconciliation Act of 1993. It provides for special accelerated depreciation for new and used assets acquired after December of 1993 on Indian reservations and former Indian reservations in Oklahoma and elsewhere. This depreciation incentive provides an approximately 40 percent shorter recovery period for most commercial property. This accelerated depreciation schedule has been successful in encouraging capital-intensive businesses to locate and expand in Indian Country in Oklahoma and throughout the Nation.

Both of these important provisions expire at the end of this year, and it is crucial that Congress act this year to extend each one.

UNANIMOUS-CONSENT REQUEST— S. 2184

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2184, a bill to allow penalty-free withdrawals from retirement plans for individuals called to active duty, and that the bill be read a third time and passed. I further ask that the bill then be held at the desk until the House companion arrives and that all after the enacting clause be stricken, the text of the Senate-passed bill be inserted, and the House bill, as amended, be read a third time and passed.

The PRESIDING OFFICER (Mr. WEBB). Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, I am wondering whether the Senator would amend his consent request to allow, instead, the following; namely, that when the Senate receives from the House its bill to extend the expiring tax provisions, the Senate would proceed to that bill, consider a Baucus amendment to extend the expiring tax provisions and prevent the AMT from hitting any additional taxpayers, agree to that amendment, and pass the bill, all without any intervening action or debate.

The PRESIDING OFFICER. Does the Senator from Oklahoma so modify his request?

Mr. INHOFE. No. I would respond to the Senator by saying, if I had a chance to get and look at the Baucus bill and look at all the provisions, I might consider doing it. As it is right now, this is my unanimous consent request.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Hearing the comments of my good friend from Oklahoma, I have no alternative but to object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oklahoma.

UNANIMOUS-CONSENT REQUEST— S. 2185

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2185, a bill to permanently extend the current marginal tax rates, and that the bill be read a third time and passed. I further ask that the bill then be held at the desk until the House companion bill arrives and that all after the enacting clause be stricken, the text of the Senate-passed bill be inserted, and the House bill, as amended, be read for a third time and passed.

This is the same legislation extension that I just described.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, again reserving the right to object, would the Senator again amend his consent request to instead allow the consent request I requested just previously?

The PRESIDING OFFICER. Will the Senator from Oklahoma so modify his request?

Mr. INHOFE. No, I will not at this time.

Mr. BAUCUS. Hearing his response, Mr. President, I must object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oklahoma.

UNANIMOUS-CONSENT REQUEST— S. 2233

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2233, a bill to provide a permanent deduction for State and local general sales taxes, and that the bill be read a third time and passed. I further ask that the bill then be held at the desk until the House companion bill arrives and that all after the enacting clause be stricken, the text of the Senate-passed bill be inserted, and the House bill, as amended, be read a third time and passed.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object once again, I ask the Senator if he would again modify his request along the lines I outlined earlier?

The PRESIDING OFFICER. Does the Senator from Oklahoma so modify his request?

Mr. INHOFE. Not at the present time.

Mr. BAUCUS. Mr. President, I object. The PRESIDING OFFICER. Objection is heard.

The Senator from Oklahoma.

UNANIMOUS-CONSENT REQUEST— S. 2216

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2216, a bill to extend the Indian Employment Credit Depreciation Rules for property within an Indian reservation, and that the bill be read a third time and passed. I further ask that the bill then be held at the desk until the House companion arrives and that all after the enacting clause be stricken, the text of the Senate-passed bill be inserted, and the House bill, as amended, be read a third time and passed.

Again, this is one of those I just referred to on the floor of this body.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Reserving the right to object, once again, I would ask my friend from Oklahoma if he would amend his consent request along the lines I earlier suggested.

The PRESIDING OFFICER. Will the Senator from Oklahoma so modify his request?

Mr. INHOFE. No. Same problem.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Objection.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oklahoma.

UNANIMOUS-CONSENT REQUEST— S. 2217

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2217, a bill to extend the taxable income limit on percentage depletion allowance for oil and natural gas produced from marginal properties, and that the bill be read a third time and passed. I further ask that the bill then be held at the desk until the House companion arrives and that all after the enacting clause be stricken, the text of the Senate-passed bill be inserted, and the House bill, as amended, be read a third time and passed.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, I make the same request of the Senator from Oklahoma.

The PRESIDING OFFICER. Does the Senator from Oklahoma so agree?

Mr. INHOFE. Same response.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Hearing the Senator's response to this long litany of requests of tax measures, which the Senator knows can in no way be passed in the Senate in this way, but also knows that many will be acted upon later this year, I must object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oklahoma.