

working well when he assumed the chairmanship of the Energy Committee in 2003.

PETE DOMENICI's legacy has inspired so many of us and his retirement will leave some pretty big shoes for us all to fill. I will miss the Senator's smile, as well as his lighthearted and joyful presence. He is known as a man, who is firm in his convictions, but gracious in his negotiations. He is an example of a true statesman who has served his country well.

I will truly miss him. I could say a lot more, but I clearly am out of time.

GULF COAST HOSPITAL APPROPRIATIONS

Mr. COCHRAN. Mr. President, as I mentioned earlier this week, I have serious concerns about the way the appropriations process was handled this year. One of my greatest concerns was the removal from the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of \$350 million to aid Mississippi and Louisiana hospitals with problems they continue to face from the devastation of Hurricane Katrina. This funding was extremely important to these hospitals to be able to retain the workforce needed to address the health concerns of the area. I was pleased, however, to learn that the majority had increased the amount of funding available under the Social Service block grant program specifically for this purpose. It is my understanding that the House Appropriations Committee included an additional \$288 million under the program to help assist these hospitals. It is my hope that when the Department of Health and Human Services awards these funds that they consider this intent.

TAX TREATMENT OF EMPLOYER- PROVIDED CELL PHONES

Mr. KERRY. Mr. President, Senator ENSIGN and I would like to engage in a brief colloquy with the distinguished chairman and ranking member of the Finance Committee, Senators BAUCUS and GRASSLEY, regarding legislation we have sponsored to fix an archaic provision in the Tax Code that adversely affects employees and businesses across the country. Under a little-noticed provision added in 1989, cell phones, blackberries, and similar devices are treated as "listed property." As a result, employees must keep detailed records of all calls made on their employer-issued cell phones—indicating whether they are personal or business-related—or have the value of the phone and phone service included as taxable income.

The current law provision was added at a time when cell phones were considered a luxury item. Now, they are a common and necessary part of conducting everyday business. Imposing strict substantiation requirements on the business use of cell phones and blackberries is burdensome and highly

impractical given their frequent use in a fast-paced global environment. To protect tens of thousands of employees and their employers from potential audits and tax liability, we should pass legislation as soon as possible next year to fix this problem.

Mr. ENSIGN. I want to join my distinguished colleague from Massachusetts and express my hope that legislation can be passed early next year to fix the out-dated tax treatment of employer-provided cell phones. The bill he and I have introduced has broad bipartisan support with over 60 cosponsors. Similar legislation has already passed the House. And both Treasury and the IRS are supportive of the fix. Thus, Senator KERRY and I would like to ask the distinguished chairman and ranking member of the Finance Committee, for their help in passing this legislation early next year.

Mr. BAUCUS. I want to thank my distinguished colleagues from Massachusetts and Nevada for raising this issue with us. I want to assure them that we are aware of this problem and we will work with our colleagues to consider legislation to eliminate the burden for employees and employers as early as possible.

Mr. GRASSLEY. I also want to join the chairman and express my intent to have the committee consider legislation that addresses this problem as soon as we can. We should not be imposing unreasonable rules on employees' use of cell phones and blackberries.

Mr. KERRY. Senator ENSIGN and I want to thank the distinguished chairman and ranking member of the Finance Committee for their willingness to work with us to address this important problem.

OFFSHORE TAX HAVENS

Mr. LEVIN. Mr. President, I will ask to have printed in the RECORD a timely opinion piece that was written by Mr. Robert M. Morgenthau, the District Attorney of the County of New York, and appeared in the Wall Street Journal on Tuesday, September 30. Since the 1960s, Mr. Morgenthau has been a leader in the fight against the abuse of offshore havens for fraud, money laundering, tax evasion and a host of other illicit activities.

As Congress votes on a plan to restore the soundness and credibility of our financial system, Mr. Morgenthau's column correctly reminds us of a factor that contributed significantly to this financial crisis—the activities of financial institutions that have hidden away trillions of dollars in offshore tax havens and that claim to be domiciled in those offshore havens, when all of their key personnel and operations are here in the United States. Mr. Morgenthau points out that this charade places these trillions of dollars, and the activities of the entities that control them, outside the oversight and supervisory control of the U.S. financial reg-

ulatory system. As the hearings held by the Permanent Subcommittee on Investigations, which I chair, have demonstrated, this charade is also a breeding ground for tax abuse, draining our system of billions of dollars in needed tax revenues.

In his article, Mr. Morgenthau reminds us that the supervisory and safety mechanisms that have been established to protect our citizens and their savings are dependent on transparency and strong regulatory vigilance. So is our tax system. When funds are hidden in offshore jurisdictions that promote secrecy and weak regulatory standards, and the funds are controlled by entities that claim they are not subject to our regulatory system, the safety net that we have established cannot function to provide our citizens the security it was designed to offer.

While we have voted on a plan to alleviate the current crisis, we have a lot more work to do to rectify the root causes of this problem. As Mr. Morgenthau points out, the abuse of offshore jurisdictions by financial institutions must be high on that agenda, and I look forward to addressing this matter in the next Congress.

Mr. President, I ask unanimous consent to have the opinion piece to which I referred printed in the RECORD.

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

[From the Wall Street Journal, Sept. 30, 2008]

Too MUCH MONEY Is BEYOND LEGAL REACH*

(By Robert M. Morgenthau)

A major factor in the current financial crisis is the lack of transparency in the activities of the principal players in the financial markets. This opacity is compounded by vast sums of money that lie outside the jurisdiction of U.S. regulators and other supervisory authorities.

The \$700 billion in Treasury Secretary Henry Paulson's current proposed rescue plan pales in comparison to the volume of dollars that now escape the watchful eye, not only of U.S. regulators, but from the media and the general public as well.

There is \$1.9 trillion, almost all of it run out of the New York metropolitan area, that sits in the Cayman Islands, a secrecy jurisdiction. Another \$1.5 trillion is lodged in four other secrecy jurisdictions.

Following the Great Depression, we bragged about a newly installed safety net that was supposed to save us from such a hard economic fall in the future. However, the Securities and Exchange Commission, the Federal Reserve System, the Comptroller of the Currency and others have ignored trillions of dollars that have migrated to offshore jurisdictions that are secretive in nature and outside the safety net—beyond the reach of U.S. regulators.

We should have learned a long time ago that totally unsupervised markets, whether trading in tulips or subprime mortgages, will sooner rather than later get into trouble. We don't have to look back very far in history to understand this.

Long Term Capital Management, a hedge fund "based" in Greenwich, Conn., but composed of eight partnerships chartered in the Caymans, was supposed to be the wunderkind of the financial world. At its peak in the late 1990s, its gross holdings were valued

at \$1.8 trillion. But, regrettably, its liabilities exceeded its assets and the Federal Reserve Bank of New York had to step in and rescue it when the value of its assets plummeted.

Most recently, two Bear Stearns hedge funds, based in the Cayman Islands, but run out of New York, collapsed without any warning to its investors. Because of the location of these financial institutions—in a secrecy jurisdiction, outside the U.S. safety net of appropriate supervision—their desperate financial condition went undetected until it was too late.

Of course, BCCI Overseas, which was part of the then largest bankruptcy in history, was also “chartered” in the Caymans.

We have to learn from our mistakes. Any significant infusion to the financial system must carry assurances that it will not add to the pool of money beyond the safety net and supervisory authority of the United States. Moreover, the trillions of dollars currently offshore and invested in funds that could impact the American economy must be brought under appropriate supervision.

If Congress and Treasury fail to bring under U.S. supervisory authority the financial institutions and transactions in secrecy jurisdictions, there will be no transparency with the inevitable consequences of the lack of transparency—namely, a repeat of the unbridled greed and recklessness that we now face. Because of the monolithic character of world financial markets, a default crisis anywhere becomes a default crisis everywhere.

HONORING OUR ARMED FORCES

Mr. DODD. Mr. President, I rise with great sadness and a heavy heart to remember a young man and a great American. Army 1LT Thomas Brown, a native of Shelton, CT, was killed in action in Iraq a few days ago—the 41st citizen of my State to lose his life in the Iraq or Afghanistan wars. He was 26 years of age.

We honor the sacrifice of all our men and women who give their lives serving this country. But it is never easy to lose someone so young—especially someone for whom life so clearly had much more in store.

As a teenager, Lieutenant Brown attended Notre Dame Catholic High School in Fairport, where it has been said he was all but inseparable from his twin brother, Timothy. He was an honor student and an athlete.

He would graduate from George Mason University in 2004, and like so many young people, he was eager to serve his country—to give something back. He attended Ranger school, Airborne school and officer candidate school.

This young man would go on to serve in the Army’s 2nd Battalion, 6th Infantry Regiment, 2nd Brigade Combat Team of the 1st Armored Division. There, I understand, Lieutenant Brown earned great respect and admiration from his fellow soldiers.

Lieutenant Brown was known among his comrades as an officer who led by example, not by order, and was immensely proud to serve his country in the U.S. Army. He was also known for his passionate love of the Boston Red Sox, and for his truly generous spirit.

In recognition of his heroic service and sacrifice, Thomas Brown was post-

humously awarded the Bronze Star Medal and the Purple Heart.

One of the saddest facts in this young soldier’s passing is that he was due to take leave and return home in 3 short weeks to visit his friends, family and girlfriend. He wanted nothing more than the chance to visit home.

Timothy Brown said recently of his brother: “He wanted to make a difference.”

Let the record show that 1LT Thomas J. Brown, in his 26 short years on this Earth, did make a difference—and that we are forever grateful for the remarkable contributions he made to the country he did so love.

U.S.-INDIA NUCLEAR COOPERATION AGREEMENT

Mr. CASEY. Mr. President, I want to convey some brief remarks regarding my views on the United States-India civil nuclear cooperation agreement. I cast a “yes” vote on this agreement, but not without some serious reservations regarding the likely damage this agreement will do to the global nuclear nonproliferation regime.

I had the opportunity to visit India earlier this year, spending a day meeting senior government leaders in New Delhi and another day in Hyderabad, where I witnessed first hand the dynamic entrepreneurship that has recently transformed India into an economic powerhouse, albeit with still extreme poverty. Let me be clear: The United States and India, sharing a common commitment to democracy and personal freedoms, are natural allies. I congratulate President Bush for building upon the initial steps taken by his predecessor, President Clinton, in nurturing closer ties between our two great nations and laying the building blocks for an enduring strategic partnership.

India’s exclusion from global trade in civil nuclear energy, a direct consequence of its 1974 nuclear weapons test utilizing equipment and materials imported for a civilian energy program, represented a continuing thorn to an otherwise blossoming United States-Indian relationship. Right or wrong, it was always the United States that was viewed as the leading advocate of the firewall between India and global nuclear trade—even though India never signed the Nuclear Non-Proliferation Treaty, NPT. So I understand why a resolution to this issue was necessary if the United States and India were to achieve a genuine partnership that could endure in coming decades.

My strongest criticism of the United States-India nuclear cooperation agreement is that, in exchange for a historic exception to the principle that those states that refuse to abide by the Nuclear Non-Proliferation Treaty cannot enjoy the fruits of global civilian nuclear trade, the United States did not ask enough in return from the Indian Government. We could have

pressed New Delhi to sign the Comprehensive Test Ban Treaty and forswear all future nuclear weapons tests. But we did not. We could have urged New Delhi to agree to a national moratorium on production of nuclear fissile material, linking that moratorium to a similar pledge by Pakistan. But we did not.

I worry over the message this agreement sends to states like North Korea and Iran. Are their leaders to believe that, with the passage of time, one day the international community will also accept their nuclear weapons programs as a *de facto* reality and move to accommodate such programs? How do we convince the international community to demonstrate solidarity against Iran’s violations of the NPT while giving a pass to India’s refusal to abide by this very same treaty? Of course I am not equating the two states—India is a democratic regime, a friend of the United States, and a force for stability in the world. There is no comparison. But I am concerned when we begin to divide the world into “good” proliferators and “bad” proliferators—instead, we need to send the message that all nuclear proliferation harms our security and increases the odds that a nuclear weapon will one day be used and kill millions.

Nevertheless, at every step of the process over the last 3 years, administration officials often appeared excessively sensitive to the need to smooth over domestic political concerns in India while downplaying concerns expressed by nonproliferation experts. So I congratulate Chairman BIDEN and Ranking Member LUGAR for their persistence in ensuring this final agreement is a real improvement over initial administration proposals. The legislation before us clarifies some of the deliberate ambiguities contained within the Article 123 United States-India agreement and the international exemption for India provided by the Nuclear Suppliers Group.

The United States-India civil nuclear initiative is a flawed agreement. Nonetheless, I am casting a “yes” vote for this legislation for two primary reasons. First, in many respects, the damage to the global non-proliferation regime has already been done. The decision taken last month by the Nuclear Suppliers Group to provide a universal exemption to permit India to participate in civil nuclear trade means that, even if the United States Congress were to reject this agreement, other nations like Russia and France are free to initiate their own civilian agreements with India. The net result of a United States rejection would likely only ensure that United States companies—and United States workers—will be unable to participate in the fruits of civilian nuclear trade with India.

Second, a “no” vote on this agreement will be unfairly construed as a rejection of a broader strategic alliance between the United States and India. Through his rhetoric and actions,