

So this bill that we will bring to the floor will try to bring some reason to this market of speculation. Speculation is all right if it is based on market fundamentals, but if it is a matter of manipulation, it goes too far. So we want this bill to come to the floor. We would like it to be a bipartisan bill. The Republicans said they support it. Let's hope we can do that.

The LIHEAP bill ought to be something we can agree to on a bipartisan basis, along with doing something about speculation to bring down energy prices and gasoline prices. Shouldn't both parties agree on that? We can do that as well. There is an issue we are debating. You cannot turn the television on recently without seeing President Bush talking about let's drill here or there and open areas for drilling.

The suggestion of the administration is our oil companies have nowhere to turn to drill for oil, and that is why gasoline prices are so high. It turns out that is not true.

Take a look at this map. Look at the areas in red on this map. This is the Gulf of Mexico, Texas, Louisiana, Mississippi, and Alabama. These areas in red are federally owned and controlled areas under lease to oil companies, where they are not drilling. In the blue area, they are drilling. In the red area, they are not drilling. Look at this literal sea of opportunity for oil, where the oil companies are not drilling. In fact, 68 million acres of land controlled by our Government has been leased to the oil and gas companies. They believed there is something there. What are they doing with it? It turns out they are only drilling on about a fourth of those acres.

So the argument that we need to dramatically increase the acreage for opportunities to drill flies in the face of reality. Why aren't the oil companies drilling on the land they are currently leasing?

Today, the House of Representatives is considering a bill called "use it or lose it," saying to the oil companies: If you are not going to drill on it, you are going to lose your lease. We will offer it to another oil company that might drill on it. So for the President and many people in his party to stand and say there is nowhere to turn to drill, look at this—all this red area in the Gulf of Mexico. But that isn't it alone. There is also a great deal of land in the United States, onshore, with the same story, Federal land that is leased for the purpose of exploration to oil companies. All the red areas are unused today. That is 34.5 million acres onshore, on land, in America, which is leased by oil companies that they are not exploring at all.

The Republicans argue—or at least suggest—they know there is some great plot of land somewhere that has lots of oil and gas, and we are restraining and restricting the oil and gas companies from exploring and producing there. I don't know where that might

be. The only one they have pointed to with any specificity is the Arctic National Wildlife Refuge in Alaska. That is 1.5 million acres. We know anything you go after in that pristine area, which has been protected for 15 years, will take 10 or 12 years to put into production and will have an impact of pennies on the price of a barrel of oil. So I am afraid this argument falls on its face.

There are opportunities to drill right now—plenty of them—68 million acres' worth—and the oil companies, though they are leasing the land, are standing idly by and not doing it. When you ask why not, they say they have not had a chance to explore these or map these. In other words, there is the possibility oil and gas might be there, there is speculation there, but if they don't know whether there is oil and gas on the lands they are already leasing, how can they argue there is some other area they have never looked at that might have more oil and gas? It doesn't follow. It is a pretty weak argument.

I think most Americans would agree we cannot drill our way out of this situation. America has 3 percent of the known oil reserves in the world. Each year, we consume 25 percent of the oil produced in the world. We cannot drill our way into lower gas prices. We want to have responsible exploration and production; both parties support that. We believe these 68 million acres offer that opportunity and the oil companies have paid for that chance there and they should exercise it. But we need to do more. We need to explore renewable, sustainable sources of energy in America.

In my State, wind turbines all over downstate Illinois are generating electricity without creating pollution or adding to global warming.

In addition, solar panels are being installed and research is going on at Federal labs so we can use solar power in a way that the next generation will be able to derive electricity and fuel our economy with sources that are not going to create environmental havoc in the years to come.

We need to look at biomass. We have to look at so many other things. Biofuels—we are exploring ethanol now that is based on corn. We are now going to move into a new generation of ethanol that will use cornstalks and corn-cobs, literally, to make the same ethanol so that the kernel of corn can go into food and not be diverted to ethanol. All of this is on the horizon, and we should push it forward.

We need battery technology. The cars and trucks we are driving today, sadly, do not meet the requirements and demand of the energy crisis we face. I am saddened that General Motors announced cutbacks in employment in the factories across America. It is a great company which is now on hard times. But I have to say in all honesty, they were forewarned. They were making these big heavy SUVs and trucks when the rest of the world was waking

up to the reality that people wanted fuel efficiency. I hope they catch up. I want them to catch up. I want America to be in the lead again when it comes to cars and trucks.

We need to push forward on battery technology so you can plug in the car when you get home at night and get up in the morning and drive 40 miles without ever using a drop of gasoline, so the electricity that is going to fire up your car is being stored in a battery that is being collected from the Sun during the day. Does it sound like a wild idea?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. I close by saying that there are many opportunities for us in the area of energy. I hope the Republicans will join us and do two things: Let us agree to move forward, let us approve LIHEAP so we can get peace of mind to families concerned about heating and air conditioning bill. Let us also move forward on speculation. We should offer our alternative, Republicans should offer theirs, and then each offer an energy bill, give us their best ideas on the Republican side and the best ideas on the Democratic side. Let's vote on them. Maybe we can merge some of them. That would be a constructive debate America would like to see.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The junior Senator from Arizona is recognized.

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## ENERGY

Mr. KYL. Mr. President, let me say on the point my friend from Illinois made, while there may well be room for dealing with speculation as part of the overall approach to our energy crisis today, it is clear that speculation cannot be the only or even a major piece of it. Without new production, we are destined to continue to rely on foreign sources for our oil and very high oil prices.

We will be interested in getting into the debates about the relative merits of different approaches to speculation. But let me talk about a little different angle to this than has been discussed so far, and that is not only the fact that people, when they go to the gas pump, find themselves paying very high prices for oil, which hurts their family budgets and, in many cases, businesses that have to rely on fuel, but also that it is a national security problem for the United States because of our undue reliance on these other countries.

The point I want to make today is this: A lot of these countries have the ability to actually increase the price because of the instability they can create around the world. I think of the Iranians, for example. Everyone knows that we get a great deal of our oil from the Persian Gulf region, that the Strait of Hormuz is the very narrow area

through which about 40 percent of all the oil has to go. Forty percent of the world's oil tankers have to exit the Strait of Hormuz as they are picking up their oil from the Emirates, Saudi Arabia, Iraq, Iran, and so forth. That creates an opportunity for mischief, and the Iranians have been very good at exploiting that. Whenever they rattle their saber, whenever they engage in a naval exercise in that area, or when, recently, they shoot off missiles to show everybody they can be tough guys and throw their weight around in the world, that gives the markets a lot of jitters, and we saw what happened: The price of oil shoots up.

Ironically, countries that are no friends of the United States would create great mischief if they could have an additional reason for this belligerent behavior. It drives up the cost of oil, which is where they make all their money. So they literally have the ability to help dictate the price of the commodity that sustains their economy.

Iran is not the only country. Russia actually produces more than Saudi Arabia. The United States is third. But Russia, as the world's largest oil producer—about 9.84 million barrels per day—has produced about a fourth of the non-OPEC crude oil since 2007. At today's prices, that would be about \$1.4 billion per day—think about that—and over \$500 billion for the year; almost \$1.5 billion a day into Russia's Treasury.

As a result, Russia has been able to do some things that are not in the interests of the United States. They are rearming their military with oil dollars. That is how they are able to afford all of the new things they are doing in terms of their nuclear program, their missile program, and all of the other things they are doing that are antithetical to United States national security interests.

Moreover, they have shown no reluctance to use their oil and natural gas production as a weapon as well. When countries next to them or even far away that rely on Russian natural gas or oil do something the Russians do not like, they simply cut off the supply. And they have done this numerous times. It has much of Europe, which relies on Russian natural gas, very jittery because if you make the Russian bear mad, he cuts off your source of natural gas and, in some cases, oil. This creates a very unstable and very difficult situation for these countries, and also has the effect of driving up the price of oil and natural gas.

Because both of these products are fungible; that is to say, they can be produced all around the world and everybody around the world buys them, there is a world market for them. So even though the jitters are in the Persian Gulf or in Europe, for example, the price is reflected all around the world, and the United States ends up having to pay more at the gas pump because these countries can affect the price of the commodity they rely on to fund their government.

Recently, it happened to be that Russia shut off oil to the Czech Republic. They have shut off oil or natural gas to other countries in Eastern Europe, especially when they did not agree with the Russian position on something. They have shut off natural gas supplies during the dead of winter to countries in Eastern Europe that wanted to join NATO. Russia says: We don't like that so we will shut you off.

The Czech Republic decided it wanted to help the United States and itself to be protected against missiles. So they are helping to establish a missile defense base in the Czech Republic. Russia doesn't like it, so half of what is sent from Russia to the Czech Republic is cut off.

This is the problem of relying on other countries, not to mention a country such as Venezuela. The United States gets a good deal of its oil from Venezuela. We all know the head of Venezuela, Hugo Chavez, has done everything he can to undermine United States influence in Central and South America and does everything he can to get in the face of the United States. If he wants to affect the price of oil, all he has to do is rattle his saber as well.

In each of these cases, we have a situation where the price of the product and the availability of the product is dependent upon positions over which we not only have no control but countries that have interests very inimical to ours, and the end result is it costs more for people in the United States for a very necessary product, namely, the oil and natural gas product we use to fuel our economy. This is one of the reasons why I say it is a national security issue as well as affecting the price at the pump.

It is one of the reasons why the United States has to begin to rely less on the oil produced in foreign countries and more on oil we can produce right here in the United States. It is not well known, but the United States is the third largest producer of oil in the world, after Russia and Saudi Arabia. We have huge reserves here of which we are not taking advantage. This is one of the reasons why Republicans are insisting that any legislation that comes to the floor dealing with this energy crisis include taking advantage of the resources we have. Let's free up these resources. We have them. They can be obtained in a very environmentally sensitive way, and they can help not only to reduce the cost of gas in the United States or natural gas but also to reduce the ability of other countries around the world to influence behavior in a bad way, such as shutting off the oil or natural gas for customers of theirs or driving up the cost of oil for everybody else.

I got to thinking about this in terms of the taming of the West. One of the reasons the United States became such a great country so rapidly was that we bought land with the Louisiana Purchase. We explored the West. We took advantage of natural resources that

were in this country, and we quickly became a very strong power economically. We had natural gas, we had oil, we had minerals—copper and gold and all of the rest. We took advantage of the resources that we had to become a wealthy and powerful country.

One hundred years ago, we didn't mine in a very environmentally safe way, but no one can deny that the way we produce our wealth today is with great environmental sensitivity. Everyone agrees with that. It is not any longer hurting the environment. All of this production can be done, for example, offshore or in the deep waters of the gulf in a very environmentally sensitive way. We are hoping the same thing can be done with oil shale.

So when our friends say we need to be able to deal with the commodity markets here and that is going to make a big difference, the answer is, there is a lot of dispute as to whether it will make any difference at all. But we do know something that will make a difference but it will not make a difference just in the long run, it will make an immediate difference. The decision to explore and produce right here in the United States where we know we have the resources, where we are not dependent on other people, where they cannot drive up the price because they can rattle their sabers in the Strait of Hormuz or cutting off oil and natural gas supplies as Russia has done, we can stop all of that by simply producing more in the United States where we know we have it and we can produce it safely and in an environmentally sound way.

It is like the settlement of the West, as I said, in taking advantage of our natural resources. We have always said we can take care of ourselves. We don't want to be dependent on others. What we have learned today is that for depending on others, we pay a very high price, and I don't mean just a high price at the gas pump but a high price in terms of our national security as well. That is the reason we are insisting on removing some of these moratoria, strictly illegal moratoria. It is a moratorium from being able to explore for energy off our coasts or in the deep waters in the gulf or on Federal lands.

There is a big upside to the Federal Government in terms of revenue royalties, as well as to States as a result of this action. So instead of paying money to foreign countries, we can be gaining some of that wealth right here in the United States.

Bear in mind that other countries are the recipients of the payments for oil around the world, not oil companies as is the case primarily in the West. We send more than \$1 billion a day, not to some oil company abroad but to foreign governments. They control the oil in Russia, in Iran, in Iraq, and so on. Let's get off of sending our money to foreign governments that are working against our interests and that can affect the price of the commodity simply

by their bad actions and rely more on the resources we have in the United States, that we know we can extract in an environmentally sensitive way, that can reduce the price immediately. That is the last point I wanted to make.

Martin Feldstein had an interesting piece in the Wall Street Journal about 2 weeks ago in which he made the point that there will be an immediate downward effect on oil prices if we simply announce that we are going to go after these resources in the United States. As a result, I urge my colleagues, when the opportunity arises and we debate this issue over the next week or so, that we support increased production in the United States for the benefit of American citizens.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 20 minutes.

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

Mr. DORGAN. Mr. President, this is a very important subject. My colleague from Arizona speaks of the issue of energy. The price of gasoline is skyrocketing. The price of oil has doubled in a year. It has an impact on everything and everybody in this country. It is important as we discuss this issue, however, that we not create false choices.

It is a false choice for anybody to suggest that, because we do one thing, we cannot do another. It is a false choice to suggest that because we take the first needed step, we are ignoring subsequent steps. We ought to do a lot of things here.

I mentioned yesterday that we had a witness come to a hearing and describe this situation. If you have someone being hauled into a hospital emergency room who is grossly obese and also suffering a heart attack, do you think some doctor who meets the gurney at the emergency room is going to look at this grossly obese person suffering a heart attack and say: All right, let's start working on a diet. We have to work on this obesity. No, of course not. He will say: Let's take emergency action to deal with the heart attack.

Now, my point is this: We have very serious energy problems. One part of it is a gross amount of excess speculation in the commodity market that has driven up—actually doubled—the price of crude oil in the past year, for which there is no justification in the supply and demand of the commodity. It seems to me, at least as a first step, we ought to address this excess speculation.

My colleagues then say you have to drill. I don't disagree with that. In 2006, I was one of four Senators who cosponsored the legislation that resulted in the law that opened lease 181 for oil and natural gas production. This is 8.3 million acres in a portion of the eastern Gulf of Mexico that is now open for

drilling. Senators BINGAMAN, DOMENICI, TALENT, and I were the people who first introduced that bill. It is now law. So that is fine.

But if the only answer is to drill then I would ask those who say that, how many airlines do you think will be serving this country if we wait for 5 or 7 years until somebody gets all the permits, undertakes the testing, builds a drilling rig up in an area and pumps new oil out of the ground? How many airlines will be serving this country? I tell you, a number of them have already gone bankrupt. Several are out of business, and others will follow quickly. How many small-mom-and-pop trucking firms that can't afford to pay for the diesel in their saddle tanks are going to be out of business in the next 5 or 7 years before this notion of drilling, which is going to produce the additional supply they are talking about, will be effective? How many fewer farmers are going to be around? How many people will be around trying to figure out: How on Earth do I afford to fill my gas tank in my car in order to get to work next week because I don't have the money for the gas?

My point is, we need to do a lot of things. Yes, we need to produce more, and we need much greater conservation. By far, the most effective achievement of additional oil production is to save a barrel of oil. We are such prodigious wasters of oil and energy in this country. It is unbelievable. There is so much to be gained by conservation and energy efficiency. In everything we use from our lights, better doors and windows, insulation, virtually every appliance, hot water heaters, refrigerators, and stoves, conservation and energy efficiency are a very significant part of this issue.

So, too, is a renewable energy future. We need game-changing approaches. I want to go from here to 10 years from now in a game-changing way that says: I don't want us 10 years from today to be so dependent on Saudi oil. My colleagues, all they talk about is drilling. I am for drilling. But if that is all you are for, that is a yesterday forever strategy. Good for you. But every 10 or 20 years you are going to have exactly the same debate—drill more. You are not going to change this country's energy future at all.

So my proposition is this: How about working together on steps, a step at a time, doing a lot of things and doing them right. How about the first step? We just had testimony this morning in the Energy Committee from someone that cited a recent report from the CFTC which indicated that more than 73 percent of those trading in the commodity futures market have nothing at all to do with hedging a physical commodity. That is not what they are interested in. They are speculators. He called them investors, but they are speculators. In fact, he said speculators. He said I actually called them investors.

But if 73 percent of that market for the oil futures is now devoid of people

who are actually trying to hedge a physical product between consumers and producers, then that market is broken. That market has gone far afield of what it was created to do.

The market was created in 1936. When it was created, Franklin Delano Roosevelt warned about excess speculation when he signed the bill. And the bill itself had a provision dealing with excess speculation because of concern that speculators could take over a market and ruin the market.

The proposition is this: What has happened in the last 14 months that has allowed that market to price oil to double in price? What has happened with respect to the fundamentals of oil supply and demand that would justify that? The answer is: Nothing. Nothing. It has been pure, relentless, excess speculation moving massive quantities of money into this marketplace speculating on crude oil futures.

I have mentioned many times the description of Will Rogers about speculation because it is not new to America. It happens. When it happens and markets are broken, we have a responsibility to take some action. Will Rogers described it as someone buying things they will never get from people who never had it. You can add, in this day and age, with money they don't possess.

So what we had is unbelievable excess speculation in the marketplace. There are some who scoff and say that is not happening. One of my colleagues this morning said what is happening is supply and demand. Well, I ask my colleagues to come to the floor and describe to me the events that have occurred in the last 14 months or so that would justify doubling the price of gasoline or oil. They will not come to the floor because they can't. The knowledge of the significant change in supply and demand in the last 14 months does not exist.

This is not about supply-and-demand fundamentals. Go back 2 or 3 years and ask yourself: What do we know about the desire of the Chinese or Indians to drive more cars? What do we know about all those factors that might, in the longer term, increase demand for gasoline or diesel? Did we not know them a year ago? Is that new knowledge? Not at all.

The fact is, nobody is going to come to this Chamber and tell us there is something that has happened to supply and demand that justifies the doubling of the price of gasoline and oil because it does not exist. This doubling existed because, in my judgment, of excessive, reckless speculation in the futures markets for oil. We have a responsibility to do something about it.

Now, the legislation that we introduced yesterday is the Stop Excessive Energy Speculation Act of 2008. Let me say that again: Stop Excessive Energy Speculation Act of 2008. I worked with Senator REID and others on the legislation. It is not brought here, as my colleague from Arizona just suggested, to

do this and nothing else. That is a false choice, and it is being presented on the floor of the Senate every chance they get. If we do this, it means we don't want to do anything else. I say let's do this and everything else.

Now, I am not suggesting, as some perhaps would, that we drill in the Grand Canyon or drill in the Everglades. There are certain areas where we ought not drill. We have a substantial amount of area that is available for drilling. And when they say: Well, we are not drilling. Why don't you go north of Kidder, ND, and take a look at a rig right now. We have about 70 to 80 of them in North Dakota, and they are drilling right now in something called the Bakken shale.

Some may not understand, but in the last 2 months, the U.S. Geological Survey put out an assessment that said the Bakken region has the largest assessment of recoverable oil ever recorded in the lower 48 States. This is 3.6 billion barrels to 4.3 billion technically recoverable barrels, and they are pulling oil out of that formation. There are drilling rigs all over western North Dakota and eastern Montana.

So when someone suggests we are not drilling, that's nonsense. Get a car and drive around a little. I will show you where the rigs are. We are drilling onshore and offshore. We have, in fact, opened lease 181, a portion of the Gulf of Mexico that was not previously opened until 2006. We don't see a lot of activity there at the moment, but we did that because there are substantial oil and gas reserves there.

I will make one additional point. There are a half million barrels that can be potentially produced off the coast of Cuba. Spain, Canada, India, and others are interested. But U.S.-based companies are not able to get involved in leasing off the coast of Cuba because we have an embargo against Cuba, among other things. President Bush doesn't want us to be involved in this region.

So it is not a case where those who come to the floor suggesting that we drill, drill, drill, would want us to drill everywhere. In fact, the legislation they brought to the floor of the Senate that touts drilling conveniently left out a substantial portion of the eastern Gulf of Mexico because a Member on their side doesn't support that. So they left that out of their proposal. Oh well. I guess one doesn't have to be consistent to come to the floor to make presentations.

The issue is this: Let's do something together because this country's economy is being damaged. American families are being injured, and farmers, truckers, and airlines are getting killed with these prices. Let's do something together to address it.

What would make sense? What is the first step, or at least a sensible first step? Does it make sense to say let's do something that will provide some relief in 7 years? That will be great to tell Aunt Millie: I know you won't be able

to pay your fuel bill this winter, but 7 years from now, just wait, we will have another field in production someplace.

What about taking first steps first? What about stopping excessive energy speculation with the bill we introduced yesterday? Now, how does the bill do that? It requires the Commodity Futures Trading Commission, which has been a regulatory agency that I have had fairly strong words about recently, to actually stand up, put on striped shirts, blow the whistles and be the referees for this marketplace. They have been an abysmal failure, in my judgment. They have an acting chairman, who says: What, me worry? The only thing going on here is the market demands and the fundamentals are working. It is just supply and demand.

In fact, the Commodity Futures Trading Commission has been issuing over the years what are called "no action letters." Boy, that is a fitting tribute to this agency—no action letters—that have said, essentially: We are not interested in seeing what is going on. In fact, we will be willfully blind to what is going on, and here is a letter that demonstrates we are interested in that position.

So what we say in the bill is: Look, there is a regulatory agency here, and we believe it ought to function and we require it to function in a certain way. No. 1, we say it ought to distinguish between groups of traders. There are those who are hedging their risk, the consumers and producers of a physical product, because that is the purpose for which this market was established and all others. All the others are speculators.

And this bill would impose substantial position limits on what are the nonlegitimate hedge trading transactions. Again, very specific. Within 30 days, we would require the regulator to impose very specific and strong position limits on all non-legitimate hedge trading. What that does is to take some of the air out of this balloon and put some downward pressure on oil and gas prices.

Now, I have shown this chart many times, but it is worth going over some of the things we have heard here in the Congress, and it is worth it because of those who come to the floor to say: What speculation? There is no speculation.

I had Fidel Gheit, an interesting guy, testify in front of our committee before, and I have talked to him by phone, and here is what he says:

There is no shortage of oil. I'm convinced oil prices shouldn't be a dime above \$55 a barrel.

And he said, talking of the futures market:

I call it the world's largest gambling hall. It is open 24/7. Unfortunately, it's totally unregulated. It's like a highway with no cops and no speed limits and everybody going 120 miles an hour.

Energy Secretary Bodman, who is one of these people who says there is nothing going on with respect to these

marketplaces and this speculation, says:

There is no evidence that we can find that speculators are driving futures prices for oil.

He says he can't find the evidence. Well, let me find evidence that indicates the opposite. Here are at least two examples. First, the House Subcommittee on Oversight and Investigations released a report showing that speculators in the oil futures market went from 37 percent to 71 percent. It seems to me that is some pretty substantial evidence. Second, testimony this morning before the Energy Committee revealed that speculators represented 73 percent of the market—almost identical.

So I would say to the Secretary: If you can't find the evidence, I can. If you have the right evidence, maybe you could search for the right solution.

Our Energy Information Administration—the EIA—doesn't do anything with respect to policy. We spend \$100 million for this agency, and it is supposed to simply provide the best information available. Here is the information they have provided: In May 2007, they said here is where we think the price of oil will be—right across here, about a straight line. In July 2007, they said: Here is where the price of oil will be. In September 2007 and in November 2007, they said here is what we think. Now, in March 2008, here is where we think it will be.

Well, guess what. These lines were so far off, I mean it is almost laughable. Here is where the price of oil went. Why is that? I assume these folks were taking a look at supply and demand and the normal relationship that determines a price, and they didn't understand that what has happened is that this market is perverted and broken as a result of excess speculation. The price went just like a Roman candle.

There is no way to describe this as anything that is rational. We are not off not by a mile, but by a country mile.

I had a hearing on this subject. Of course they couldn't answer the question of why they were off so far.

The senior vice president of ExxonMobil:

The price of oil should be about \$50 to \$55 per barrel.

The same with the president of Marathon Oil, same answer.

My sense is that we ought to do everything, but we have folks coming to the floor of the Senate to say: You can't do anything unless you do drilling first.

We are doing drilling right now, but we will not allow you to do anything unless you do something that is going to affect something 5 or 7 years from now.

It doesn't make much sense to me. It seems to me, if this is an opportunity to move forward, you address the hurdles that are in front of you. The first hurdle, it seems to me, is to set this market straight. I believe the market we have with respect to the futures

market is broken. There is reason to debate that. I respect those who disagree, but I think the evidence is not on their side.

What I think we should do is decide we have a very serious problem, and we should address it three steps. The first step would be to tackle this speculation issue. We introduced that legislation last Tuesday. That legislation brings everything under the control of the Commodity Futures Trading Commission so they can see all of it, including the over-the-counter trades on foreign exchanges. It requires strong position limits. The fact is, it requires that a distinction be developed between legitimate hedgers and just pure speculators. We should do that. So that is step No. 1.

Step No. 2, it seems to me we should develop a broader position with the six or eight things we need to do as a country in a much more aggressive way that increases additional production, conservation, and energy efficiency measures because all of these opportunities in the future.

For step three, we ought to do something that is game changing because we come here every 10 years or so, every 20 years, and the drillers come in and say: The only way to solve our energy problem is to drill. As I said, that is a yesterday forever policy. That is fine if you are comfortable coming back to the same debate and putting our country in the same position. But the game-changing approach, in my judgment, is to say there are a lot of ways for us to develop renewable sources of energy, a lot of ways for us to develop renewable sources of energy in a way that really changes our energy future significantly.

Those are the three things I think we ought to do and do them in that order and fairly close order, and I believe we ought to do it understanding that this is an emergency.

If all we do is just to deny that this market is broken and deny that there is excess speculation, then we will just be talking past each other. If that is all we do, I wonder how many airlines will be left in this country 5 or 7 years from now, if that is the time period in which maybe you get some additional drilling up and get some additional production? How many trucking firms are going to be operating out there? How many mom-and-pop firms go belly-up in the next 6 months or year or 2 years? How will the folks who are trying to fill their tanks and figure out how they are going to pay gas prices go to work? How will they fill that tank to get to work next week or next month or next year?

I think there is an urgency. One of the things to respond to with respect to that urgency is the first challenge in front of us. That urgency is to set straight the excess speculation in this marketplace. We can do that. There is nothing Republican or Democratic about that. It is just to look at this with a level head and say: Here is a

problem, let's address it. The underlying law that created the futures market was created in 1936. It has a provision dealing with excess speculation.

I will make one final point. The regulatory authority here has been an abysmal failure, but that is not just in this case. We face a lot of challenges today. We face challenges with respect to banking. We face challenges with respect to the subprime scandal and a whole range of other things, and you can trace it right back to the root that so many people felt regulation was a four-letter word. They decided we want to have regulators who decided not to regulate. That is certainly the case with this market. It is the case with other issues as well.

I think we have a Congress that has the responsibility and opportunity to set it straight.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

The senior Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I believe Senator STEVENS is going to speak, but I ask unanimous consent that he be recognized on the completion of my statement.

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

Mr. GREGG. Mr. President, obviously the issue of energy is at the center of everybody's concern.

Does the Senator from Alaska wish to go forward?

Mr. STEVENS. Yes.

Mr. GREGG. Mr. President, I ask to reserve my time and ask that I be recognized at the completion of the presentation by the Senator from Alaska.

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

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The senior Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I am here once again because the price of oil remains at a historic high. It has come down slightly today, and I hope that will continue. As a matter of fact, I hope people listen to what we are saying so it will come down because I do think this drop has something to do with the fact that everybody is talking about speculation.

There is no question that my people, Alaskans, are paying more for fuel oil and gasoline and petroleum products than anyone in the country despite the fact that we produce almost a million barrels of oil a day. We don't have any gasoline refineries. We have refineries for jet fuel because we have such an

enormous traffic, through our State, of commercial cargo planes. Of course, during the summertime we have enormous tourist traffic to our State by the airlines.

It is a great problem for us right now because we have less than a million people spread out over an area that is more than twice the size of Texas. We are absolutely fuel-intensive in terms of our lifestyle because 70 percent of our cities can be reached only by air year round. We really have to deal with the problems that are presented by this energy crisis.

I applaud the President lifting the offshore drilling ban. I do think it sent a signal to the country that it is a very serious thing. After all, his father placed that in effect, and it has been there, and it really is something that has to be dealt with.

The difficulty is that even with the ban lifted and even with full approval of the Congress, we are going to the Outer Continental Shelf now to determine how much we can produce. We know we can produce a great amount, but how much we can produce from the Outer Continental Shelf? Two-thirds of the Outer Continental Shelf is off our State, and there is only one oil well there now. There are hundreds of thousands of wells in the other one-third, but because of the constant opposition of those who oppose exploration and development in our State, we are stymied.

Take for instance the leases on the Chukchi Sea, which is the area off the northwest coast of Alaska, some 70 miles off the coast. The oil industry has obtained leases there to explore for and develop that area for its oil and gas potential. That has been, now, tied up for over a year by a series of lawsuits. One of them is claiming that oil and gas exploration would harm the polar bear. I want the Senate to know that just a week ago, the ice at that area was 17 feet deep. The ice is not disappearing the way people say it is, particularly in the period of time when the polar bears are there. But beyond that, the difficulty is there is a whole series of things that—these people who are against exploration and development in my State have caused wildlife to be listed as endangered or at least threatened, and they are using those findings in order to delay the development of new facilities to bring us the new production we need, the new production the Government needs.

It reminds me of the time I spent here on the floor—almost 4 years—in the seventies when the first group litigated again and again to delay the oil pipeline. Finally, we reached the stress point where we had to ask the Senate to do something it had never done before and hasn't done since, and that is to close the courts of the United States to this constant delay in building that pipeline. We finally brought that amendment to the floor. It was debated at length for 4 days, and it ended up with a tie vote—the only tie vote at

the time of the then Nixon administration. Vice President Agnew broke the tie. It was 49 to 49.

Think of what that means. At that time, there was a paradigm that the Senate would not filibuster anything that involved national security. The availability of oil to meet our needs is a matter of national security, but we faced a filibuster ever since then, in terms of trying to develop the Arctic.

One of the things we ought to look to today, though, is the letter that has been sent by almost all the airlines in the United States. AirTran, Alaska Airlines, American Airlines, Continental, Delta, Hawaiian, JetBlue, Midwest Airlines, Southwest, United, and U.S. Airways, all joined in sending a letter to the holders of their frequent flier programs dealing with the problem of the skyrocketing oil and fuel prices and what they are doing to destroy the capability to provide air transportation to the United States.

I read before and let me read again this one paragraph. I think it is absolutely something everyone should understand. I am quoting now from this letter signed by all the presidents and heads of these companies.

Mr. President, I ask again to have it printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. STEVENS. The letter says:

Twenty years ago, 21 percent of oil contracts were purchased by speculators who trade oil on paper with no intention of ever taking delivery. Today, oil speculators purchase 66 percent of all oil futures contracts, and that reflects just the transactions that are known. Speculators buy up a large amount of oil and then sell it to each other again and again. A barrel of oil may trade 20-plus times before it is delivered and used; the price goes up with each trade and consumers pick up the final tab. Some market experts estimate that the current prices reflect as much as \$30 to \$60 per barrel in unnecessary speculative costs.

If those pieces of paper that represent future delivery of oil are purchased by people who are just speculating and that purchaser ends up, after selling the paper, acquiring it again, to me, that is absolute proof of a criminal conspiracy in this country.

I think this speculation has to stop. We have to start talking more about it, and we have to do something about it. What I would do is make sure it is a criminal matter if someone acquires the same piece of paper dealing with futures in oil and has no ability to use the oil. I really do not think there is any reason—I can understand a company might buy ahead for 2 or 3 years in oil and buy futures and hedge against the price, that, in fact, it might go up, but people who buy those pieces of paper solely to manipulate the price—and that is what happens when someone not involved, these institutional investors, buys a piece of paper to buy oil in the future and then sells it to another institutional investor

and then another one. If that piece of paper ends up in the same hands the second time, to me, that is a criminal conspiracy, and it is time we looked at that and understood it. This letter sets it forth.

Believe me, any Member of the Senate who ignores this letter ignores the fact that every single frequent flier person in the country has it in their hands. I don't know about the rest of you, but I am getting thousands of letters from people who are sending me this letter and saying: What are you going to do about it? I say what we have to do about it is send a signal to these speculators to take notice that Congress is serious about speculators.

I know there is a difference of opinion out here on the floor of the Senate, there is no question about it, but in the last 5 years, investments in commodity index funds jumped from \$13 billion to \$260 billion. That means institutional investors have gone from owning \$13 billion worth of oil futures to \$260 billion in oil futures.

Now, someone tell me that is not a conspiracy.

Let me put up this chart. This chart represents the so-called NYMEX oil futures. The red on the chart represents the price of oil; the gold represents the volume of trading. The volume of trading has gone up, but the price has gone up more than twice as much as the volume.

There is only one thing that can drive up a spike like that. That is speculation, it is not demand. Someone told me not to try to understand supply and demand in the oil business. I think I know something about oil demand in the oil business, because we tried to meet that demand in terms of our State. We had a better chance of satisfying the demand of the United States than any State. But to have this situation go along I think is wrong, to go forward I think is wrong.

I have personally talked to one of the economists. I must say he does not share my feelings that we ought to make this a crime immediately, because, it is my understanding, he does not believe we have seen evidence of criminal conduct yet.

But I say it is criminal conduct if someone owns one of those pieces of paper twice. There is no reason to sell a future in oil and then turn around and buy it later at a higher price. They are actually being acquired and turned over more than 20 times before the oil is delivered. That ought to be something the Justice Department and the CFTC should have notified us on before it took the time of all of these presidents of these companies to send this letter to their customers so they can send it on to us. These people have told their customers to contact us. Well, this is one time I hope all of us listen to what they are saying. Because there is no question that we have to find some way to restrict this trading to those who need oil in the future, those who legitimately hedge to try and save

their customers money, not to cost them more money but to save money. A true hedge would save money for the customers of the particular person who acquired the futures.

I think the legislation Senator FEINSTEIN and I introduced some time ago represents an important step toward breaking this bubble. The position limits we would place on institutional investors would be very minimal and would make them stay away from market manipulation.

If we can see these investments shift away from the energy commodities and back to the stock markets the way we have in the last few days, I think the stock market would recover.

I thank my friend from New Hampshire for letting me use part of his time. But I say, we cannot stop at mandating transparency. We have to do something to put these people in fear before they will stop this action of driving this price up.

#### EXHIBIT 1

An Open letter to All Airline Customers:

Our country is facing a possible sharp economic downturn because of skyrocketing oil and fuel prices, but by pulling together, we can all do something to help now.

For airlines, ultra-expensive fuel means thousands of lost jobs and severe reductions in air service to both large and small communities. To the broader economy, oil prices mean slower activity and widespread economic pain. This pain can be alleviated, and that is why we are taking the extraordinary step of writing this joint letter to our customers. Since high oil prices are partly a response to normal market forces, the nation needs to focus on increased energy supplies and conservation. However, there is another side to this story because normal market forces are being dangerously amplified by poorly regulated market speculation.

Twenty years ago, 21 percent of oil contracts were purchased by speculators who trade oil on paper with no intention of ever taking delivery. Today, oil speculators purchase 66 percent of all oil futures contracts, and that reflects just the transactions that are known. Speculators buy up large amounts of oil and then sell it to each other again and again. A barrel of oil may trade 20-plus times before it is delivered and used; the price goes up with each trade and consumers pick up the final tab. Some market experts estimate that current prices reflect as much as \$30 to \$60 per barrel in unnecessary speculative costs.

Over seventy years ago, Congress established regulations to control excessive, largely unchecked market speculation and manipulation. However, over the past two decades, these regulatory limits have been weakened or removed. We believe that restoring and enforcing these limits, along with several other modest measures, will provide more disclosure, transparency and sound market oversight. Together, these reforms will help cool the over-heated oil market and permit the economy to prosper.

The nation needs to pull together to reform the oil markets and solve this growing problem.

We need your help. Get more information and contact Congress by visiting [www.StopOilSpeculationNow.com](http://www.StopOilSpeculationNow.com).

Robert Fornaro, Chairman, President and CEO, AirTran Airways; Bill Ayer, Chairman, President and CEO, Alaska Airlines, Inc.; Gerard J. Arpey, Chairman, President and CEO, American

Airlines, Inc.; Lawrence W. Kellner, Chairman and CEO, Continental Airlines, Inc.; Richard Anderson, CEO, Delta Air Lines, Inc.; Mark B. Dunkerley, President and CEO, Hawaiian Airlines, Inc.; Dave Barger, CEO, JetBlue Airways Corporation; Timothy E. Hoeksema, Chairman, President and CEO, Midwest Airlines; Douglas M. Steenland, President and CEO, Northwest Airlines, Inc.; Gary Kelly, Chairman and CEO, Southwest Airlines Co.; Glenn F. Tilton, Chairman, President and CEO, United Airlines, Inc.; Douglas Parker, Chairman and CEO, US Airways Group, Inc.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, it is my understanding that I have 10 minutes to speak as in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. GREGG. Mr. President, I rise to participate in this discussion on energy. I agree with the Senator from Alaska, and I agree, in part, with the Senator from North Dakota, that there has to be an addressing of the issue of speculation.

I think any deal that takes shape on this floor will help if we do that. In addressing the issue of speculation, there are a lot of different factors, however. One of them is that we make sure to maintain control over these commodity markets, and we not create an atmosphere where these commodity markets move offshore and therefore we lose any regulatory control on our part.

But, in addition, I do not think we can repeal the laws of common sense. The essence of the law of common sense is that you have India and China moving toward fairly developed nations and creating massive increases in the demand for oil. There are 2.5 billion people in those two countries. We have 300 million people in our country. We still use the majority of the world's oil. But the simple fact is that demand for oil has radically increased, and we are not going to be able to reduce our energy costs in this country unless we produce more American resources, and also conserve more. That is the simple fact. It is a function of supply and demand. And part of producing more means that we have got to look at those places where we have sources of energy. Two of the key places we have sources of energy are offshore and also oil shale. Both of those resources and, in fact, in the case of oil shale, those resources, the reserves of oil there, exceed the reserves of Saudi Arabia by a factor of two or three. In both of those instances we can recover energy by exploring and drilling in a manner that is environmentally safe. We have proved that beyond any question relative to offshore drilling, when you see that Hurricane Katrina came right up the gulf coast and destroyed one of our great cities but at the same time there was essentially no oil leak or no gas leak from any of the production facilities in the Gulf of Mexico.

We have proven we can produce this energy in a safe and environmentally sound way, and we need to produce it. If you want to see the price of energy drop in this country, you have got to show the world community that we as a nation are willing to step forward and produce and conserve more energy. The way you produce more energy is by drilling, drilling offshore and using the underground resources of oil shale which exceed the reserves of Saudi Arabia. So if we want to address the cost of energy, we should do it, and we should do it now. We should not be waiting.

That is why I congratulate the President for lifting the moratorium. The Senate should lift the moratorium that was put in place by the Senate, by the Congress, on both oil shale and offshore drilling.

(The remarks of Mr. GREGG pertaining to the introduction of S. 3279 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. KLOBUCHAR. I ask unanimous consent that the order for the quorum call be rescinded.

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

#### EXECUTIVE SESSION

NOMINATIONS OF PAUL G. GARDEPHE TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK AND KIYO A. MATSUMOTO TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Senate now proceed to executive session to consider the following nominations: Calendar Nos. 687 and 688, and that the Senate proceed to vote on confirmation of the nominations; that upon confirmation of the nominations, the motions to reconsider be laid upon the table, en bloc, the President be immediately notified of the Senate's action, with no further motions in order, and the Senate then resume legislative session; and that any statements relating to the nominations be printed in the RECORD; and that after this consent is granted, Senator SPECTER of Pennsylvania be recognized for 1 hour.

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

Under the previous order, the Senate will go into executive session and proceed to the consideration, en bloc, of Executive Calendar Nos. 687 and 688, which the clerk will report.

The assistant legislative clerk read the nominations of Paul G. Gardephe,

of New York, to be United States District Judge for the Southern District of New York; and Kiyo A. Matsumoto, of New York, to be United States District Judge for the Eastern District of New York.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nominations of Paul G. Gardephe, of New York, to be U.S. District Judge for the Southern District of New York, and Kiyo A. Matsumoto, of New York, to be U.S. District Judge for the Eastern District of New York?

The nominations were confirmed.

Mr. LEAHY. Mr. President, today we continue to make progress by having confirmed two more nominations for lifetime appointments to the Federal bench: Paul Gardephe for the Southern District of New York and Kiyo Matsumoto for the Eastern District of New York.

These nominees each have the support of the New York Senators, who worked with the White House to identify a slate of consensus nominees. I thank Senators SCHUMER and CLINTON for their consideration of these nominees. I also thank Senator SCHUMER for chairing the hearing on their nominations.

It is ironic that again this week the Senate Republicans have made another attempt to make a partisan, election-year issue out of the confirmation of judicial nominations. This is the one area where the numbers have actually improved during the Bush Presidency while the life of hardworking Americans has only gotten more difficult. Inflation is now on the rise, jobs are being lost, gas prices have skyrocketed, food prices have soared, health care is unaffordable and what Republicans come to the floor to pick a partisan fight about today is the pace of judicial confirmations.

Americans have seen the unemployment rate rise to 5.5 percent and trillions of dollars in budget surplus have turned into trillions of dollars of debt. This week General Motors announced layoffs. The annual budget deficit is in the hundreds of millions of dollars, the dollar has lost half its value and the costs of the Iraq war and interest on the national debt amount to \$1.5 billion a day. And today Republicans spent their time on the Senate floor—after the Democratic leadership of the Senate had pushed through two more judicial confirmations to lifetime appointments—to complain about the pace of judicial confirmations.

When President Bush took office, the price of gas was \$1.42 a gallon. Today it is at an all-time high of over \$4.10 a gallon. The Nation's trade deficit widened 8 percent in April alone due to the surging gas prices, and is now at its highest level in 13 months. The housing crisis and mortgage crisis threaten the economy. The Chairman of the Federal Reserve gave sobering testimony this week to the Senate and the House. The stock market lost 2,000 points in the first 6 months of the year and went