

have available, in terms of our supply, and we are going to do everything we can to reduce our demand. We are going to do everything we can to conserve what we have. I believe that will send the fear of God through those individuals, and we will see an impact on the cost of oil in this country, even though it is going to happen in the future.

Do you know what is funny. These folks are betting that we will not do what we ought to do because they have watched us. They have watched us. They have seen that we have not used our resources. They have watched us and seen that we have not used the best technology to reduce our demand for oil. They have watched us as we have not conserved as we should have been doing during the last number of years.

I think the chickens have come home to roost. High gas prices are hurting Americans. The problem we have had in this country is, we haven't had an energy policy, but we have not harmonized our environment, our energy, our economy, and our national security. I am confident we can come together on a bipartisan basis and work something out so the American people understand that the Senate and Congress have come together on an issue that is of crisis proportion to our fellow Americans, and that we care more about them and our country's future than we do about bickering with each other.

I go home all the time, and people just say: the reason your numbers are so bad is because we think you guys, men and women, are more interested in partisan politics and bickering than you are in getting together and getting the job done.

I have to say, from my perspective, it is very frustrating. I was the mayor of Cleveland, an 8-to-1 Democratic city; 21 councilmen and the most powerful council president. We worked together. We figured out how to move the city of Cleveland ahead for 10 years.

I became the Governor of Ohio, and Vern Riffe was the speaker of the house 24 years, the most powerful Democratic speaker we had. After he discovered I was Governor after 6 months—it took a while—Vern and I sat down and said: You know what. Let's work together and move Ohio ahead.

I think it is time we got together and said: Republicans and Democrats, let's move America ahead. Wouldn't it be great for our children and grandchildren to one day celebrate the time America put aside its differences and came together to reaffirm its independence a second time and rekindled the American spirit of self reliance, innovation, and creativity to usher in a new era of prosperity?

Mr. President, I ask unanimous consent the Newsweek article by Robert Samuelson be printed in the RECORD.

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

[From Newsweek, June 28, 2008]

LET'S SHOOT THE SPECULATORS!

(By Robert J. Samuelson)

Tired of high gasoline prices and rising food costs? Well, here's a solution. Let's shoot the "speculators." A chorus of politicians, including John McCain, Barack Obama and Sen. Joe Lieberman, blames these financial slimeballs for piling into commodities markets and pushing prices to artificial and unconscionable levels. Gosh, if only it were that simple. Speculator-bashing is another exercise in scapegoating and grandstanding. Leading politicians either don't understand what's happening or don't want to acknowledge their complicity.

Granted, raw-material prices have exploded across the board. Look at the table below. It shows price increases for eight major commodities from 2002 to 2007. Oil rose 177 percent, corn 70 percent and copper 360 percent. But that's just the point. Did "speculators" really cause all these increases? If so, why did some prices go up more than others? And what about steel? It rose 117 percent—and continued increasing in 2008—even though it's not traded on commodities futures markets.

A better explanation is basic supply and demand. Despite the U.S. slowdown, the world economy has boomed. Since 2002, annual growth has averaged 4.6 percent, the highest sustained rate since the 1960s, says economist Michael Mussa of the Peterson Institute. By their nature, raw materials (food, energy, minerals) sustain the broader economy. They're not just frills. When unexpectedly high demand strains existing production capacity, prices rise sharply as buyers scramble for scarce supplies. That's what happened.

"We've had a demand shock," says analyst Joel Crane of Deutsche Bank. "No one foresaw that China would grow at a 10 percent annual rate for over a decade. Commodity producers just didn't invest enough." In industry after industry, global buying has bumped up against production limits. In 1999, surplus world oil capacity totaled 5 million barrels a day (mbd) on global consumption of 76mbd, reckons the U.S. Energy Information Administration. Now the surplus is about 2mbd—and much of that in high-sulfur oil not wanted by refiners—on consumption of 86mbd.

Or take nonferrous metals, such as copper and aluminum. "You had a long period of underinvestment in these industries," says economist John Mothersole of Global Insight. For some metals, the collapse of the Soviet Union threw added production—previously destined for tanks, planes and ships—onto world markets. Prices plunged as surpluses grew. But "the accelerating growth in India and China eliminated the overhang," Mothersole says. By some estimates, China now accounts for 60 percent to 80 percent of the annual increases in world demand for many metals.

Commodity-price increases vary, because markets vary. Rice isn't zinc. No surprise. But "speculators" played little role in the price run-ups. Who are these offensive souls? Well, they often don't fit the stereotype of sleazy high rollers: many manage pension funds or university and foundation endowments. Their modest investments in commodities aim to improve returns.

These extra funds might drive up prices if they were invested in stocks or real estate. But commodity investing is different. Investors generally don't buy the physical goods, whether oil or corn. Instead, they trade "futures contracts," which are bets on future prices in, say, six months. For every trader betting on higher prices, another is betting on lower. These trades are matched. In the

stock market, all investors (buyers and sellers) can profit in a rising market and all can lose in a falling market. In futures markets, one trader's gain is another's loss.

Futures contracts enable commercial consumers and producers of commodities to hedge. Airlines can lock in fuel prices by buying oil futures; farmers can lock in a selling price for their grain by selling grain futures. What makes the futures markets work is the large number of purely financial players—"speculators" just in it for the money—who often take the other side of hedgers' trades. But all the frantic trading doesn't directly affect the physical supplies of raw materials. In theory, high futures prices might reduce physical supplies if they inspired hoarding. Commercial inventories would rise. The evidence today contradicts that; inventories are generally low. World wheat stocks, compared with consumption, are near historic lows.

Recently the giant mining company Rio Tinto disclosed an average 85 percent price increase in iron ore for its Chinese customers. That was stunning proof that physical supply and demand—not financial shenanigans—are setting prices: iron ore isn't traded on futures markets. The crucial question is whether these price increases are a semi permanent feature of the global economy or just a passing phase as demand abates and new investments increase supply. Prices for a few commodities (lead, nickel, zinc) have receded. Could oil be next? Barron's, the financial newspaper, thinks so.

Politicians now promise tighter regulation of futures markets, but futures markets are not the main problem. Physical scarcities are. Government subsidies and preferences for corn-based ethanol have increased food prices by diverting more grain into biofuels. A third of the U.S. corn crop could go to ethanol this year. Restrictions on offshore oil exploration and in Alaska have reduced global oil production and put upward pressures on prices. If politicians wish to point fingers of blame for today's situation, they should start with themselves.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

(The remarks of Mr. ROCKEFELLER, Mr. LAUTENBERG, and Mr. MENENDEZ pertaining to the introduction of S.J. Res. 44 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New York.

KIYO MATSUMOTO AND PAUL GARDEPHE

Mr. SCHUMER. Mr. President, I rise to speak about two judicial nominees who were approved by this Chamber a few hours ago, both from my home State of New York. Happily, earlier today, they were confirmed by voice vote to be district judges in the Southern and Eastern Districts of New York. Both of these nominees, Magistrate Judge Kiyo Matsumoto and Paul

Gardephe, were rated unanimously "well qualified" by the American Bar Association, and both were unanimously reported out of the Judiciary Committee before they were confirmed today.

In New York, we have actually worked out a wonderful system for nominating judges to the district and circuit courts in which the President and I have worked extremely well together to name mainstream, consensus candidates to the Federal bench such as these two nominees.

Some of my Republican friends were here on the floor earlier making all kinds of assertions about the judicial nominations process. Undoubtedly, there has been rancor when it comes to judges from other parts of the country, but it doesn't have to be that way. When the administration works closely and cooperatively with home State Senators, as we have done in New York, things work out extremely well. Highly qualified, mainstream judges, not too far on either side, are approved—some nominated by the President and some nominated by the Senators from New York. In my State, we work well together. The results are not only mainstream consensus nominees but mainstream consensus nominees without the acrimony. Two of the consensus nominees were before us earlier today.

I am particularly pleased to support Judge Matsumoto in the Eastern District to be judge because I personally recommended her to the President. When I interviewed her, I was deeply impressed by her poise, intellect, temperament, and thoughtfulness. The sitting judges in the district speak extremely highly of her, and her record of public service and accomplishment speaks for itself. Her confirmation, moreover, is historic. She now becomes only the second Asian-American woman ever to be confirmed to the Federal bench. We hope another and another and another will come soon.

Judge Matsumoto graduated with high honors from the University of California at Berkeley and received her J.D. from Georgetown. Her distinguished career has included work in the private sector, in academia, and public service. For years, Judge Matsumoto has been a well-respected Federal magistrate judge in the Eastern District. In fact, on only one occasion has a reviewing district court judge declined to adopt Judge Matsumoto's report or recommendations. That is an extremely impressive record.

I am not only proud to support the nomination of Judge Matsumoto because of her integrity and qualifications but also because I believe she will contribute to a diversity of perspectives on the Federal bench. I have always believed that our Federal bench should reflect the same broad diversity of experience as America writ large. I have endeavored to add minorities to the benches of New York State. I am

endeavoring now to add women as well because fewer than one-third of sitting judges in the Eastern District are women, and Judge Matsumoto will help narrow the gap. I have also nominated a woman to sit in the Southern District whom, hopefully, we will nominate next week, as she was approved by the Judiciary Committee unanimously.

Of course, there is an unfortunate underrepresentation of Asian Americans on the bench. With her confirmation, Judge Matsumoto becomes only the third Asian-American Federal judge outside of the Ninth Circuit and only the second ever in New York. The only other, Denny Chin, was confirmed to the Southern District bench 14 years ago.

Judge Matsumoto has received the enthusiastic support of other groups, including the National Asian Pacific American Bar Association. They call Judge Matsumoto's nomination "a potential milestone for the Asian Pacific American community." I couldn't agree more.

Judge Matsumoto's father and mother, merely because they were of Japanese descent, were forcibly removed to an internment camp during World War II. Fifty years later, their daughter ascends to the Federal bench. This shows that in America, we make our mistakes, but we also have greatness. Judge Matsumoto's life and career show the greatness of those who believe in America and push our Nation to its best potential. The woman whose family was subject to the worst injustice under law, now, as a result of her own talent and hard work, has a seat of legal power to judge others with intellectual excellence and fairness. God bless America for these kinds of things that happen.

Finally, I would like to say a few words in favor of Judge Paul Gardephe, who was earlier confirmed as a judge in the Southern District of New York. Mr. Gardephe has an impressive and eclectic legal resume that includes work in both the public and private sector, work on criminal prosecution, criminal defense, civil litigation, and corporate law. He is a magna cum laude graduate of the University of Pennsylvania and Columbia Law School. He served as a law clerk to Judge Engel on the Sixth Circuit, has spent 9 years as a prosecutor in the Southern District, and worked as deputy general counsel for Time, Inc. Mr. Gardephe also worked for the inspector general in the Department of Justice, where he was involved in the review of the Department's performance in the Robert Hanssen and Aldrich Ames spying cases. Mr. Gardephe was also honored with the Thurgood Marshall Award for his work representing a death row inmate pro bono.

When I decide whether to support a nominee to the Federal bench, the most important criteria to me is this: Is the nominee an ideologue or will the nominee place the rule of law ahead of his or her own personal ideological

views? I believe both of these nominees will make excellent judges who will be impartial and thoughtful guardians of the rule of law. I am pleased that my colleagues voted to confirm both of them. I heartily congratulate the nominees and their families.

I yield the floor.

Mr. BARRASSO. Mr. President, I think we all agree that balancing environmental with energy goals can be a challenge, but it is a challenge we must confront now.

Members of this body have discussed various proposals to regulate the output of greenhouse gases. Some advocate doing it through a cap-and-trade approach. Others have advocated a carbon tax. Such proposals are aimed at limiting future carbon output into the atmosphere.

Discussion and debate is not enough. We need action now. One resource often overlooked is coal. Despite the recent pace in developing clean coal technologies, America cannot afford to simply give up on this challenge. Coal is an abundant, affordable, reliable, and secure energy source. It has the potential to become an even cleaner fuel.

I believe another solution to protect our environment and our economy can be found in the GEAR Act. This bill takes a new look at climate change by tapping into human potential and the American spirit to develop the technological solutions we need to address climate change.

Recently, there was a very thoughtful editorial written by Shawn Taylor which was printed in the "Wyoming Livestock Roundup" on July 12, 2008. Shawn is the executive director of the Wyoming Rural Electric Association. I believe he does a terrific job of summing up the feelings of Wyoming people on the need to take action balancing climate change goals while keeping bills affordable.

I ask unanimous consent to have the editorial to which I referred printed in the RECORD.

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

WAS CHICKEN LITTLE RIGHT?

(By Shawn Taylor)

Is the sky falling? In the past I would have responded to this question by saying, "It depends on whom you ask," but in today's world you'll be hard pressed to find anyone involved in the energy/environmental/business/agriculture, etc. industries that would argue with Chicken Little.

Whether you agree with those who subscribe to the man-made global warming theory, or those who think the status quo is acceptable, or somewhere in between, you can find a scientist with numbers to argue your case. But I would like to try to focus on some political, physical and, economic realities.

First, pressure is mounting in Congress to do something about climate change. Both presidential candidates have stated they support a cap and trade approach to curb emissions of carbon dioxide. While political debates in Washington, D.C. may seem far away the outcome will have a direct impact on you, whether you're in the agriculture industry, a small business owner or just own a house and have to pay your utility bill.

Experts now say some areas of the country will be short of power within one or two years. Climate change is but one aspect of a looming energy crisis created by increasing demand and decreasing capacity to meet that demand.

While Wyoming's elected representatives in D.C. are sympathetic and understand these issues, many in D.C. aren't spending a lot of time on the energy supply issue. The desire to reduce greenhouse gas emissions quickly without regard to our national economy and giving short shrift to technology-driven solutions, and the growing demand for power are about to collide and form, excuse the cliché, the perfect storm.

Second, while all Americans need to start being more efficient with their energy usage, energy conservation cannot meet the nation's power needs alone. While the development of more renewable resources helps diversify and strengthen our energy supplies, they are not the silver bullet solution to climate change. We need everything we can get our hands on in the near future, just to keep the lights on, to say nothing of a long-term energy policy.

Third, to avert an energy crisis, the federal government must exercise true leadership. Without that leadership—without a sound, responsible plan—government risks not only the reliability of our electric system, but literally the ability of many Americans to be able to afford to pay their electric bill. Consumers could be paying a higher bill each month without the guarantee the lights will stay on.

Folks in Wyoming and across the country need to start a dialogue with their elected officials at every level by asking the following questions:

Balancing electricity needs and environmental goals will be difficult. How much is this effort going to increase my electric bill; what will you do to make it affordable; and in the end, will these emissions reduction goals have a global impact?

Experts say our nation's growing electricity needs will soon go well beyond what renewable energy and energy conservation and efficiency can provide. What is your plan to make sure we have the electricity we'll need in the future? What are you doing to fully fund the research required to make emissions free electric plants an affordable reality?

I encourage you to contact your representatives and senators and ask them these questions and ask they pose the same questions to their colleagues.

You don't need to be an energy expert to ask questions. You I do need to be aware you may not be able to pay your utility bill in the future, or that there might not even be a utility bill to pay! Asking questions helps find the answers to solve the problem of balancing climate change goals while keeping your electricity reliable and your bills affordable.

Right now members of Congress, as well as state elected officials, are hearing from lots of different interest groups with ideas about how to address climate change or global warming or emissions reductions, whatever you want to call it. While I write this as the Executive Director of the Wyoming Rural Electric Association, the problems we face are pretty much universal, and the one group that, to date, has been left out of the conversation is the consumer. We need a plan people can live with today while we deal with the long-term issue of balancing energy policy and environmental policy.

To make things easy there is a website to allow you, the consumer, to contact your Congressional delegation and ask them the questions mentioned above. The website [www.ourenergy.coop](http://www.ourenergy.coop) was established by the

National Rural Electric Cooperative Association but you don't have to be a member of a co-op to ask these questions, you just have to be concerned about the approach D.C. is taking.

Policy makers far too often don't ask questions until something goes wrong. We believe it makes sense to know the answers before the laws are passed. You can help your elected officials and yourself by having this conversation.

The PRESIDING OFFICER. The majority has 2 minutes 20 seconds remaining; therefore, the Senator from Pennsylvania is recognized.

Mr. CASEY. I know my time is limited, Mr. President.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I will make sure my friend from Pennsylvania doesn't lose a second of his time.

The PRESIDING OFFICER. There is 1 minute 56 seconds.

Mr. REID. I ask unanimous consent that the Senator from Pennsylvania have 3 minutes.

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

#### CONCLUSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that morning business be closed so that I might file cloture on a motion to proceed to the speculation bill we tried to move on earlier and that once the motion is stated, the Senate return to morning business.

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

#### STOP EXCESSIVE ENERGY SPECULATION ACT OF 2008—MOTION TO PROCEED

##### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

##### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 882, S. 3268, the Stop Excessive Energy Speculation Act of 2008.

Harry Reid, Jeff Bingaman, Byron Dorgan, Christopher J. Dodd, Amy Klobuchar, John F. Kerry, Daniel K. Inouye, Patrick J. Leahy, Patty Murray, Bernard Sanders, Jack Reed, Sheldon Whitehouse, Bill Nelson, Richard Durbin, Frank R. Lautenberg, Tom Harkin, Maria Cantwell.

#### MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

(The remarks of Mr. CASEY pertaining to the introduction of S.J. Res. 44 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CASEY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

#### ENERGY

Mr. SESSIONS. Mr. President, I know we are moving to the bill that deals with speculation, which is designed to bring down the price of gasoline. I think there is a bubble out there of some kind in the price of gasoline, at least I hope so. If that is so, I think we could see that bubble burst or some of the steam come out of it. I think it is something we ought to encourage.

Some of my colleagues on the Republican side of the aisle, justifiably, are concerned that we are trying to pass a law that will end the right to contract, end the right to protect yourself from rising costs, and those kinds of things. I, frankly, am not that worried about it. I think there is a danger we could overregulate the futures market. I do not think, historically, we have ever attempted to do that in any fundamental sense.

It is pretty clear, if we do not have a futures market here, one will exist in some other place in the world, as they already do today. So I guess I would say, if you can come up with a good bill that does not do any real damage, that it might help reduce speculation, I would be inclined to consider it and give it a fair shake.

But I do not believe that is the problem we have today. I believe people are speculating and driving up prices from that speculation, if it is occurring—and it probably is to some small degree—because there is a shortage of the amount of oil on the world market, that the demand is greater than supply. When the price of oil on the world market was \$20 a barrel—that was not too long ago—\$40 a barrel, if the speculators were so powerful, why didn't they drive it up then?

What happened, according to most experts, is we are consuming about 87 billion barrels of oil a year, and we are producing about 86 billion. Supply is inelastic and demand is inelastic. So when the price goes up, people do not stop using it much.

We are beginning to see about a 3-percent reduction in the American use of gasoline, after a doubling of the price. So most people would like to use less, but between their work and their family and their just needs, they have to use automobiles in this country, and they are not able to go out and sell their pickup truck or their SUV and buy some hybrid automobile this week. It would be nice, but people cannot afford to give away those things they have invested large amounts of money in.

We have done the calculations on it, and I have concluded that based on 24,000 miles traveled by a typical two-car American family per year, the increase in gasoline prices, in 1 year, means that family is paying approximately \$105 more per month—per month—than they were just 1 year ago