MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senate is in a period of morning business, with Senators permitted to speak for up to 10 minutes each.

U.N. TAXATION

Mr. INHOFE. Madam President, I was misled into thinking that we would be able to introduce some amendments tonight and then was told, when I got down, that they are confining those amendments to only three. Let me mention that I have an amendment I feel very strongly about that I want to take up first thing in the morning. I will explain what it is. It is amendment No. 613.

I can remember back in 1996, the United Nations Secretary General announced that the U.N. was interested in pursuing a global tax scheme. In response, Congress passed—and President Clinton signed into law—a policy rider on the Foreign Operations and State Department appropriations bills that would prevent the United Nations from using any U.S. funds to pursue a global tax scheme. The idea was that if we had a United Nations that wanted to have a global tax—they have been attempting to do this for many years because they don't want to be held accountable to anyone—then every time something comes up that is against the interests of the United States, we normally will pass a resolution saying that we are going to withhold a percentage of our dues to the United Nations until they change this policy. In 1996 and every year since, 13 years, we have had, as a part of that, language that says that the U.N. could not use any of the funds of the United States to pursue a global tax scheme of any type. The provision has appeared in every annual appropriations since 1996. This year marks the first time an annual appropriations bill will not contain this policy provision preventing U.S. tax dollars from funding U.N. global tax schemes.

According to page 64 of division H of the joint explanatory statement, this policy provision has been intentionally left out of the fiscal year 2009 Omnibus Appropriations bill. Preventing U.S. taxpayers funding U.N. global taxes in annual appropriations bills has been a bipartisan U.S. policy for over a decade. It is very difficult for me to understand, because I haven't seen any explanation as to who is opposed to this. It was put in by Democrats and Republicans on a bipartisan basis. Now we find that it was left out. The amendment very simply puts back the language that we have had historically in the law for the past 13 years.

Let me serve notice that I will make every effort to be first in line tomorrow morning to try to get this amendment in. I would invite any opposition that is out there, because I don't know of any opposition to it. Being fair, I think it is probably the fact that they wanted to shorten tonight to restrict it to three amendments.

I ask unanimous consent that my time be extended to whatever time I shall pursue. I will not be more than 15 minutes from this point.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CHANGES TO THE ESA RULES

Mr. INHOFE. Madam President, I was listening with some interest to the Senator from Alaska and what she is trying to do. I think, once again, we are faced with a backhanded attempt to regulate greenhouse gases without the transparency of public debate. Section 429 of the omnibus currently includes yet another congressional handout to some of the extremist groups and to the trial bar. This rider is clearly an attempt to legislate on a spending bill, the sort of bad habit that Democrats in Congress and the White House promised to give up during the last election.

As ranking member of the Environment and Public Works Committee, I strongly support the bipartisan amendment offered by Senators MURKOWSKI and BEGICH to revise the omnibus section 429. This subject is particularly important to me since the EPW Committee holds jurisdiction over all issues impacted by the offending provision, including endangered species, the regulation of greenhouse gases, and the transportation infrastructure which we are going to be pursuing in the next few weeks.

Without the amendment, section 429 allows the agencies to make dramatic changes to the Endangered Species Act rules and regulations without having to comply with longstanding Federal laws that require public notice and public comment by the American people and knowledgeable scientists. These changes have the potential for far-reaching and unintended consequences in our economy.

Specifically, this activist-friendly rider would allow the Secretary of Interior and the Secretary of Commerce to undo a regulation making commonsense adjustments to the ESA as well as withdraw a special rule and listing for the polar bear. By ignoring the protections of the Administrative Procedures Act, the rules in question could be withdrawn within 60 days of adoption of the omnibus bill and then reissued in whatever form the agencies preferred, without having to go through any notice or public comment period and without being subject to any judicial review as to whether their actions were responsible or justified.

This is exactly what the two Senators from Alaska are attempting to correct. Existing ESA rules clearly lay out the U.S. Fish and Wildlife Service position that oil and gas development in the Arctic and Alaska Native subsistence activities are not the reason for the polar bear's recent listing status and are not affecting polar bear population. I might add that we have made quite a study of the 13 polar bear populations in Canada. All but one are increasing. The one that is not is the western Hudson Bay. That is due to some regulations in hunting that have adversely affected them. That is being corrected at this time. So if you stop and realize over the last 40 years, we have increased the population of polar bears in the world by fivefold, then there isn't a problem. However, let's assume that there is a problem, and we want to be sure that we are able not to have the intended consequences.

If enacted, implementation of section 429 would mean that any increase in carbon dioxide or greenhouse gas emissions anywhere in the country could be subject to legal challenges due to assertions that those activities are harming a polar bear or that there has not been sufficient consultation with the U.S. Fish and Wildlife Service regarding activities that are funded, carried out, and authorized by the Federal Government.

In other words, you could have someone who is cooking on his Hasty Bake in his backyard in Tulsa, OK and have a lawsuit filed saying: You are emitting greenhouse gases; therefore, you are affecting the polar bear. Any permit for a powerplant, refinery, or road project that increases the volume of traffic anywhere in the United States could be subject to litigation, if it contributes to local carbon emissions. Lawsuits and ESA-prompted delays could extend to past fossil fuel-linked projects, if those projects could increase greenhouse gas emissions or reduce natural carbon dioxide intake.

If this provision is allowed to stand, it will likely endanger the delivery of the majority of the construction projects funded by the recent stimulus bill since these projects have not gone through a section 7 consultation regarding their impact to the polar bear. In other words, we passed the stimulus which I opposed. I had an amendment that would have actually provided a lot of jobs. That amendment they would not let me bring up. I believed that since it was an Inhofe-Boxer amendment, it would have passed. But it didn't.

So now we have a few jobs out there, a few things that are going to contribute to the employment problem of this country. If this provision is in there without the correction found in the bipartisan amendment by the two Senators from Alaska, then it is going to say the very thing we are trying to stimulate—in terms of jobs, construction, roads, bridges, and highways—cannot be done because of the section 7 consultation regarding the impacts on the polar bear. Ironically, President Obama today announced the release of $28 billion from the American Recovery and Reinvestment Act to States and local transportation authorities to repair and build highways, roads, and bridges. This investment will lead to

150,000 jobs saved or created by the end of 2010. State highway departments have already identified more than 100 transportation projects throughout the country, totaling more than $750 million, where construction can start within the month. In other words, we have already undergone all of the environmental requirements. We have the environmental impact statements. We are ready right now. In my State of Oklahoma, we have $1.1 billion worth of work that could be started tomorrow.

Now, President Obama stated that the projects funded under the ARRA are deemed so important to America's economic recovery that they will bear a newly designed emblem. The emblem is a symbol of President Obama's commitment to the American people to invest their tax dollars wisely and to put Americans back to work. Rest assured that section 429 of the omnibus bill will not bear this emblem.

I applaud the President for highlighting infrastructure spending as a main driver of immediate job growth in the stimulus plan, but I am concerned by the conflicting priorities created by section 429. You cannot support large infrastructure spending as an economic stimulus while simultaneously endangering its translation into job growth with more redtape.

The Murkowski-Begich amendment correctly requires that if these ESA rules are withdrawn or revised, the action is subject to the requirements of the Administrative Procedures Act, with at least a 60-day comment period. This is a good government amendment. The fact that this amendment is even needed to restore the public participation protections is exactly the sort of nonsense that makes the American taxpayer so suspicious of Congress. From the public's perspective, the effect of this amendment would be to bring us back to the longstanding process where the agencies may withdraw and revise regulations by following the law established to do so.

We have heard from the Democratic managers of this bill that nothing new was added to this bill since last year. We have been told there is no controversial legislative language in this bill.

We have been misinformed. This rider was not a part of the negotiations or the appropriations bills last year, and I assure you, it is very controversial. I urge the leadership to allow the Senate to vote on the Murkowski-Begich amendment, and I ask for my colleagues' support for ensuring regulatory transparency.

I believe this is very important because, without this, there is so much uncertainty as to what the application would be in terms of the Endangered Species Act. So I encourage the adoption of that amendment.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. INHOFE. Madam President, it is my understanding we are in a period of morning business. I ask unanimous consent to be recognized for what time I shall consume.

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

FAIRNESS DOCTRINE AND LOCALISM

Mr. INHOFE. Madam President, last week I joined 86 of my colleagues to pass Senate amendment No. 573, offered by Senator DEMINT to the DC Voting Rights Act, which prohibited the Federal Communications Commission from reinstating the fairness doctrine.

This has become an issue over the years where you can recall the action that took place back in the middle 1980s—I think 1986—that recognized the fact that we have so many opportunities for people to get at information that it is no longer necessary to have what they call the fairness doctrine.

Last week's vote was the first nail in the coffin of the fairness doctrine, but it was not the end of the attempt on the part of some people to regulate the airwaves. I have long been outspoken on this issue. It gives me great satisfaction that so many of my colleagues voted in favor of free speech over Government regulation last week. But the debate has changed. In a straight party-line vote, Democrats chose to adopt Senator DURBIN's amendment No. 591, which calls on the FCC to ''encourage and promote diversity in communication media ownership and to ensure that broadcast station licenses are used in the public interest.''

Essentially, it makes an end run around the fairness doctrine. Those on the other side of the aisle believed this would allow them to proclaim their opposition to a reinstatement of the fairness doctrine, which has always been a losing issue for them, while at the same time replacing it with an equally heinous piece of legislation that gives the FCC unfettered authority to interpret that language however they please.

So we have potentially taken away the threat of the fairness doctrine, which requires broadcasters to ''present controversial issues of public importance in an equitable and balanced manner,'' and replaced it with ''encouraging and promoting diversity in communication media ownership.'' At least with the fairness doctrine, broadcasters had an initial choice of how to interpret ''controversial issues of public importance'' before answering to the FCC, but this new authority gives all the power to a Government agency and none to the people of the broadcast industry.

One thing I know: When you take choice out of the market, and when you impose the Government's will on an industry, that market and that industry will suffer, and that is exactly what Senator DURBIN's legislation attempts to accomplish. What was once the fairness doctrine has now become the Durbin doctrine.

What, I ask, does ''encourage and promote diversity in communication media ownership'' really mean? I certainly cannot tell you what it means, and that is what concerns me because it is up to someone else's interpretation. The legislation offers no words of clarification or specificity. If I were an FCC commissioner, I would not know what to do with this language, and in any other line of work, I would send it directly back with a little note attached asking to please be more specific. But Federal agencies love this kind of language because it gives them greater leeway to interpret it however they like—which could be interpreted differently by different governmental agencies—and impose their will upon the industry they regulate.

My Democratic colleagues who promoted this amendment like this type of language because it, first, means that they do not have to spend the time drafting quality legislation aimed at solving a specific problem, and, two, it means they can disavow their true intention of having greater Government regulation of the airwaves. Now, at the same time, they can say: Well, I voted for the DeMint amendment. So that offered cover for these individuals.

This legislation is so incredibly vague and so potentially far reaching that I cannot say with any certainty what the end result will be. This is not good governance, and it is not good legislative practice to cede such authority to any agency of our Government, especially when the right to speak freely over the airwaves will most certainly be impacted.

Another threat to our freedom of speech is a stealth proposal called ''localism,'' which could force local radio stations to regulate the content they broadcast. It is important to note that ''localism'' as FCC policy already exists, but new policies that have been proposed reach far beyond ensuring that broadcasters serve their local communities.

The FCC gave notice of proposed rulemaking. This was back on January 24, I believe it was, of 2008. While the regulations were ultimately dropped, they are indicative of future attempts to regulate the airwaves through localism and something about which all Americans need to know.

Among other things, the proposal would have required radio stations to, one, adhere to programming advice from community advisory boards; two, report every 3 months on the content