entertainment such as Las Vegas or Disney World or Duluth.

From the heartland to the coasts, every State has an economic stake in the tourism industry, which is now a major part of the American economy. Throughout the United States, many communities have discovered and developed the economic potential of travel and tourism.

I keep using the example of Duluth because at some point in the 1970s, the economy was so bad there they actually had a billboard, so when you drove out of town, it said: The last one to leave, please turn off the lights.

Well, that billboard is not there anymore, as tourism is the biggest part of their economy, on beautiful Lake Superior, with beautiful museums and an aquarium and a children's museum. It has changed the life of that town. Tourism creates good jobs that cannot be outsourced.

Mr. President, one out of every eight Americans is employed in our travel economy. Each year, travel and tourism contribute approximately $1.3 trillion to the American economy. International visitors, as Senator DORGAN just noted, spend an average of $4,500 per person.

In economic terms, international tourism to the United States counts as an export. Instead of shipping our product to a customer overseas, the customer is coming here to spend money on our goods and our services.

Last year, travel and tourism exports accounted for 8 percent of all U.S. exports and 26 percent of all U.S. services exports. In fact, tourism is one of the few economic sectors where we enjoy a substantial trade surplus.

Travel is a part of the fabric of our State and our country. But over the past decade, we know it has been stretched to the brink. While more people around the world are traveling, a smaller percentage of them are visiting the United States.

This is not just about our troubled economy right now. This was going on long before that. It actually started after 9/11, where, for good reasons, security measures were put in place. But some of those good reasons have turned into very difficult times for tourists to come to this country, and that needs to be fixed. That is part of this bill: to make it easier for tourists to visit our country.

Since 2000, the U.S. share of the world travel market has decreased by nearly 20 percent, costing us hundreds of thousands of jobs and billions of dollars in revenue.

Last year, nearly 200,000 travel-related jobs were lost. The Commerce Department predicts we will lose another 247,000 jobs this year. Remember, this is not about airport CEOs. This is about the janitors who work at the airports. This is about the maids who are doing the beds. This is about the waitresses who are working at the restaurants. This is about the people who do the flowers for the hotels and for the banquets and for the business travelers. These are real jobs in America.

This has always been a country that has opened its arms to people from around the world. That is why we are so great. We have to bring that back. We have to bring people in to visit this country.

The Travel Promotion Act will do just that. By boosting travel to the United States it will also give a boost to our economy. So it is a win-win for the tourism industry, for jobs for America, and for the American people.

Senator DORGAN went through the bill. I do want to emphasize that not only will this consist of travel promotion and promoting our country, like other countries have been doing for years that have been leapfrogging us in this market, additionally, this legislation will establish the Office of Travel Promotion in the Department of Commerce to work with the Corporation for Travel Promotion and the Secretaries of State and Homeland Security to encourage travel and to make sure international visitors are processed efficiently.

It does not cost taxpayers a cent, as Senator DORGAN pointed out, and economists expect it to generate billions for our economy.

According to an analysis by Oxford Economics, this tourism program is estimated to attract 1.6 million new international visitors annually and create $4 billion in new spending in our country, creating 40,000 new jobs.

We know we need to bring back business travel. We should not let a few bad actors influence the decisions of good companies around this country. We know we have to look, this summer, for affordable deals for our families, and people are staying close to home. We want our Minnesotans to go fishing in Minnesota.

I say to the Presiding Officer, I would love to ask you if you know how much money people spend alone in Minnesota on bait and worms every year. I will tell you the answer. It has probably never been uttered before in this Chamber: $50 million a year. Minnesotans and visitors to our State spend $50 million a year on bait and worms for recreational fishing—just to give you an idea of what we are talking about when we talk about tourism spending.

I strongly urge my colleagues to support this important piece of legislation. I am proud to be a cosponsor. I look forward to working on this bill on the floor in the days to come.

MORNING BUSINESS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak in morning business for 25 minutes.

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

NOMINATION OF SONIA SOTOMAYOR

Mr. KAUFMAN. Mr. President, I rise today to discuss President Obama's nomination of Sonia Sotomayor to be an Associate Justice of the U.S. Supreme Court.

Judge Sonia Sotomayor has impeccable legal credentials and a record of excellence and integrity. Equally important, she has the experience not only to make an excellent Justice but also to have a significant impact on a Court that today reflects too narrow a slice of America.

Judge Sonia Sotomayor's deep appreciation for how the law affects the lives of ordinary Americans is born from her compelling personal background, as well as her time as an assistant district attorney, a commercial litigator, and later as a judge.

Once confirmed, she will become the first Hispanic Justice, and just the third woman, to serve on the Nation's highest Court.

What are we to make, then, of the assaults on the character and record of this seemingly exemplary nominee?

Unfortunately, they seem to be a remnant of more than two decades of ''culture wars'' over Supreme Court nominees.

As someone who was present for the beginning of these wars, I have seen them develop into elaborate political dances, where both sides trade charges that are predictable and often baseless.

Some of these attacks, such as charges of racism and bigotry, deeply undermine our national dialog.

I am encouraged to note that my colleagues on the other side of the aisle have chosen not to join in these attacks, and many, in fact, have condemned them.

Other attacks are equally predictable, from the general charge of ''extremist'' to particular instances of political ''gotcha''—wrenching statements out of context in order to paint a distorted picture of the nominee's record.

At some level, partisan assaults are expected in the Supreme Court nomination process. But in the case of Judge Sotomayor, they are especially divorced from this body's good-faith exercise of its duty to advise and consent.

It is one thing to attack a nominee's judicial philosophy when the President is trying to reshape the Court based on judicial philosophy, when the balance of the Court is at stake, or when the Senate and the President are deeply divided.

None of those situations apply to this nomination.

Judge Sotomayor is a well-qualified, mainstream jurist who does not threaten to tip the balance of the Court and

who is likely to be confirmed by a substantial majority.

Although these partisan attacks take many forms, today I would like to address one persistent, unhelpful, and often baseless charge—that of so-called ''judicial activism.''

What is especially unhelpful about calling someone a judicial activist is that many times it is an empty epithet, divorced from a real assessment of judicial temperament.

As conservative jurist Frank Easterbrook puts it, the charge is empty:

> Everyone wants to appropriate and apply the word so that his favored approach is sound and its opposite ''activist.'' Then ''activism'' just means judges behaving badly—and each person fills in a different definition of badly.

In other words, the term activist, when applied to the decisions of a Supreme Court nominee, is generally nothing more than politically charged shorthand for decisions that the accuser disagrees with.

That is not to say that the term ''judicial activism'' is necessarily without content. If we want to take it seriously, it might mean a failure to defer to the elected branches of government, it might mean disregard for long-established precedent, or it might mean deciding cases based on personal policy preferences rather than the law.

I think it is fair to say that based on any of these definitions, the Supreme Court's current conservative majority has been highly activist.

Let me give just a few examples.

In United States v. Morrison, decided in 2000, the Rehnquist court struck down a key provision of the Violence Against Women Act. Rather than deferring to the considered judgment and extensive fact-finding of a democratically elected Congress, the Court went out of its way to impose its own judgment. This body held extensive hearings, made explicit findings, and voted 95 to 4 in favor of the bill. An activist Court chose to ignore all that and substitute its own, constricted view of the proper role of the national government for that shared by both Congress and the States.

That same year, the Court decided Kimel v. Florida Board of Regents. The five-Justice majority concluded that States could not be sued by private citizens for age discrimination without their consent because of a general principle of sovereign immunity.

This is another decision that was, simultaneously, ''conservative'' in terms of policy outcome and ''activist'' in terms of judging.

It was conservative because it expanded States rights and contracted antidiscrimination rights.

It was activist both because it struck down the considered judgment of Congress and because it was based not at all on the text of the Constitution but instead on the policy preferences of five Justices.

In his dissent in Kimel, Justice Stevens said:

> The kind of judicial activism manifested in such cases represents such a radical departure from the proper role of this Court that it should be opposed whenever the opportunity arises.

With the addition of Chief Justice Roberts and Justice Alito, the conservative majority of the current Court has continued to be highly activist, even though the two newest Justices are not always candid about what they are doing.

In fact, that charge has been leveled against Justices Alito and Roberts by no less an authority than Justice Scalia.

In the campaign finance case, Federal Election Commission v. Wisconsin Right to Life, the Court struck down key provisions of the Bipartisan Campaign Reform Act, again substituting its view of good public policy for that of Congress.

But this was more than a failure to defer to a democratically elected body. The Court effectively overruled controlling precedent—McConnell v. FEC—while pretending that it was doing no such thing. Justice Scalia called this ''faux judicial restraint.''

In much the same vein, in a case called Hein v. Freedom from Religion Foundation, Justices Roberts and Alito were part of a majority that in effect overruled longstanding precedent on taxpayer standing, while again claiming that they were not doing so.

Again, Justice Scalia called their bluff, attacking Justice Alito's opinion for falsely claiming to honor stare decisis.

Of course, in both cases Justice Scalia wanted to overrule the cases in question expressly, but at least he was honest about his intentions.

Then there's Parents Involved in Community Schools v. Seattle School District No. 1.

In that case the Court rejected local community authority in the area of voluntary integration of public schools. Chief Justice Roberts' plurality opinion for the four-person conservative bloc gave the back of the hand to a long line of desegregation precedents, beginning with Brown v. Board of Education.

Remember that this is the same Justice who, during his confirmation hearing, repeatedly professed his allegiance to stare decisis.

If not for the opinion concurring in the judgment by Justice Kennedy, communities that want some modest measure of racial integration in their schools would be virtually powerless to act.

Another recent case, this time in the anti-trust area, again shows that activism is in the eye of the beholder. In Leegin v. PSKS, the Court, with the addition of Justices Roberts and Alito, overruled 96 years of unbroken precedent on vertical price-fixing.

This case, plain and simple, represents the elevation of big manufacturers' interests over those of the consumer. And this Court rejected nearly a century of precedent because the majority of its members decided to embrace a particular economic theory different from the one that prevailed at the time the Sherman Antitrust Act became law.

I want to mention one final example of conservative judicial activism, though there are plenty more I could cite.

Pending before the Supreme Court right now is a case that involves a constitutional challenge to section 5 of the Voting Rights Act. As my colleagues in this body know, section 5 requires some States and political subdivisions, because of a history of racial discrimination, to ''pre-clear'' new voting rules with either the Justice Department or a Federal court.

The claim made by the Texas voting district in the case seems to be that section 5 has outlived its usefulness.

Before voting to reauthorize the Voting Rights Act in 2006, the Congress undertook an extensive and thorough review of the current nature and extent of discrimination against minority voters, and of the continued need for section 5.

It held 21 hearings and accumulated 16,000 pages of testimony over the course of 10 months. And at the end of that process, Congress concluded that section 5 is still necessary, and passed the bill by a vote of 98-to-0 in the Senate and 390-to-33 in the House.

Though the Court has not yet ruled in this case, the questioning from the bench during oral argument should give us concern, and does give us more evidence of conservative judicial activism.

Some members of the conservative wing of the Court, including Justices Scalia and Roberts, suggested by their questions that they intend to disregard the entire CONGRESSIONAL RECORD.

In discussing the provisions of the act that allow jurisdictions to ''bail out'' of section 5 coverage, by showing that they no longer need to be covered, Justice Scalia argued that bailing out was impractical.

When the attorney for the United States explained that Congress had considered and rejected that argument, Justice Scalia responded: ''The question is whether it is right, not whether Congress rejected it.'' So much for deference to legislative fact-finding.

What makes this apparent substitution of a justice's assessment of the facts for that of Congress particularly troubling is the language of the Constitution itself.

Remember that congressional authority for the Voting Rights Act comes from the 15th amendment, which not only guarantees the right of citizens of the United States to vote, but also says in section 2. ''The Congress shall have power to enforce this article by appropriate legislation.''

So here we have Congress operating at the height of its power, and members of the Supreme Court seeming to want to decide the case based on their own view of good policy.

I think I have given enough examples to suggest that judicial activism is a two-way street.

As my Judiciary Committee colleague from Oklahoma said during the confirmation hearing for Chief Justice Roberts, ''We each have our own definition of judicial activism.''

So what does the ''activism'' charge add to the debate? I would say, very little.

Let's take a look at the charge that Judge Sotomayor is a judicial activist.

To support that claim, critics point to a single, much-publicized case involving New Haven firefighters. But this attack is not only disingenuous it is upside down.

In that case, Judge Sotomayor was part of a 3–0 decision based on settled circuit court precedent.

Her panel's decision supported the trial court judge's ruling and the decision of the local government regarding the best way to determine promotions for firefighters.

Later, a majority of the entire court of appeals ruled to let the panel's decision stand.

There is no doubt that the case addresses a difficult set of issues, and that the Supreme Court may come out the other way, though likely by a razor-thin margin.

But Judge Sotomayor's decision to defer to the democratically accountable, local New Haven government and rule along with the majority of her court not to upset settled precedent cannot meet any definition of judicial activism. In fact, the complaint seems to be that she was not activist enough.

The truth of the matter is that Judge Sotomayor, far from being an extremist, is very much in the mainstream.

Other than the firefighters case, she has decided 88 cases involving claims of race discrimination while on the court of appeals. In 78 of those cases, Judge Sotomayor and the panel rejected the claim of discrimination.

Of the 10 cases favoring claims of discrimination, 9 were unanimous, and of those 9, in 7 the unanimous panel included at least one Republican-appointed judge.

I am not so naive as to believe we can eliminate entirely the partisan exploitation of the confirmation process.

Maybe, though, we can put to rest the tired and un-illuminating charge of judicial activism.

After all, that charge is rarely meant as a genuine claim about the exercise of judicial power. Instead, it is generally just an established part of an elaborate and tired script, a claim that we can expect no matter who the nominee may be.

So let's focus on substance rather than empty code words. Let's debate the quality and merits of Judge Sotomayor's judicial philosophy and approach rather than hurl epithets or engage in demagoguery.

Next month, the Judiciary Committee will hold a confirmation hearing, at which Senators from both sides of the aisle will be able to question Judge Sotomayor directly and publicly.

Because Supreme Court Justices are not elected but rather appointed for life, the qualifications of every nominee should be carefully examined, not only by Senators but also by the public at large.

This is the time when the public should be and will be paying close attention. We do not do ourselves, or the public, any favors if we rely on meaningless labels left over from the culture wars.

Mr. President, I urge my colleagues to reconsider what the charge of ''judicial activism'' brings to our debate.

Judge Sotomayor deserves our careful consideration, but I hope that my colleagues here in the Senate will continue to abstain from the culture wars and name calling that too often have characterized our judicial nominations over recent years.

HEALTH CARE REFORM

Mr. KAUFMAN. Mr. President, I wish to speak today about reforming our health care system. As I said last week, most Americans are satisfied with the health care they receive, but if we want to maintain and improve the quality of affordable health care, we need to act now. We must get health care costs under control while preserving choice. We must reform health care to make it more affordable for businesses and patients and less cumbersome for providers. Health care reform has been delayed for too long, and it cannot wait any longer.

If anyone needs reasons as to why health care reform is necessary, all they have to do is read some of the studies that have been released recently that show the dire consequences for our health care system and our economy if we refuse to act. For example, if we allow the status quo to persist, the White House Council of Economic Advisers has estimated that the sheer gross domestic product devoted to health care will rise from 18 percent in 2009 to 28 percent in 2030 and 34 percent in 2040. This trajectory is simply unsustainable.

Businesses in America have to compete against companies from other countries. Many of these foreign companies pay nothing for health care for their workers or retirees. Others pay far less than what many of our larger corporations pay. This puts many of our businesses at a disadvantage in the global marketplace.

A recent report by the Robert Wood Johnson Foundation and the Urban Institute reiterates the pressure that American businesses face in supplying health care benefits to their employees. These researchers prepared analyses using a simulation model estimating how coverage and cost trends would change between now and 2019. Looking at three different scenarios, the worst case would be where there is a slow growth in incomes and continuing high growth rates for health care costs; an intermediate case where there would be some faster growth in incomes but a lower growth rate for health care costs; and the best case would be where there is full employment, faster income growth, and even slower growth in health care costs.

Under all three scenarios, the report showed a tremendous strain on business owners and their employees over the next decade if no reform is enacted. If health care reform is not enacted, the report projects that within 10 years, the cost of health care of a business can double from approximately $430 billion for employee premiums in 2009 to $885 billion in 2019. Even in the best case scenario, employer spending on health insurance premiums would rise by 72 percent.

This would most likely result in fewer Americans being offered employer-sponsored insurance, with a likely drop from 56 percent of employees getting coverage through their employer in 2009 to as few as 49 percent by 2019.

If no changes are made, and the number of people with employer sponsored insurance continues to decrease, that also means the ranks of the uninsured will increase. And the projections are not pretty.

Under the same scenarios, the number of uninsured will reach just over 53 million under the best case and as high as 66 million under the worst case.

Unfortunately, when those without insurance do receive care—most likely in an emergency room—the costs for treating them are passed on to those of us who are fortunate enough to have health insurance.

Providers and hospitals charge insurers more for the services provided to patients who do have health insurance to make up for the cost of treating the uninsured.

These cost shifts result in a ''hidden tax'' of higher premiums for patients and businesses.

Right now, this hidden tax results in an increase of about $1,000 for premiums for family coverage.

It is time for reform.

Over the last decade, Americans have watched their health insurance premiums double at a growth rate six times faster than their wages, threatening their financial stability.

If we do not reform health care, if health care premiums continue to rise at 4 percent per year, in 2025 premiums for family coverage will cost more than $25,000 per year.

Can you imagine how that dollar amount will affect American families?

On top of this, a recent study published in the American Journal of Medicine showed that bankruptcies involving medical bills now account for more than 60 percent of U.S. personal bankruptcies, an increase of 50 percent in just 6 years. And it is not the uninsured that is driving this increase.

In fact, more than 75 percent of families needing to enter bankruptcy because of health care costs actually