

Of course, the Senate is only the most recent chapter in DAN INOUE's lifetime of service to our country, which includes his Medal of Honor service in the Army during World War II, and his service in the Hawaii Territorial Legislature and the U.S. House of Representatives.

Hawaii may be the youngest State in this great country, but as Senator INOUE's milestone demonstrates, our contributions continue to shape the United States of America.

From President Barack Obama, who grew up not far from Senator INOUE's childhood home on the island of Oahu, to each teacher, soldier, construction worker, and farmer, we are proud of the many accomplishments of Hawaii's people. We are proud to be the 50th State, and we are proud of Senator INOUE's long career serving our Nation.

Aloha and congratulations, DAN.
(Applause, Senators rising.)

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Brian Anthony Jackson, of Louisiana, to be U.S. District Judge for the Middle District of Louisiana?

Mr. McCONNELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Missouri (Mrs. McCASKILL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Florida (Mr. LEMIEUX) and the Senator from Kansas (Mr. ROBERTS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 186 Ex.]

YEAS—96

Akaka	DeMint	Leahy
Alexander	Dodd	Levin
Barrasso	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Bayh	Ensign	Lugar
Begich	Enzi	McCain
Bennet	Feingold	McConnell
Bennett	Feinstein	Menendez
Bingaman	Franken	Merkley
Bond	Gillibrand	Mikulski
Boxer	Graham	Murkowski
Brown (MA)	Grassley	Murray
Brown (OH)	Gregg	Nelson (NE)
Brownback	Hagan	Nelson (FL)
Bunning	Harkin	Pryor
Burr	Hatch	Reed
Burriss	Hutchison	Reid
Cantwell	Inhofe	Risch
Cardin	Inouye	Rockefeller
Carper	Isakson	Sanders
Casey	Johanns	Schumer
Chambliss	Johnson	Sessions
Coburn	Kaufman	Shaheen
Cochran	Kerry	Shelby
Collins	Klobuchar	Snowe
Conrad	Kohl	Specter
Corker	Kyl	Stabenow
Cornyn	Landrieu	Tester
Crapo	Lautenberg	Thune

Udall (CO)
Udall (NM)
Vitter

Voinovich
Warner
Webb

Whitehouse
Wicker
Wyden

NOT VOTING—4

Byrd
LeMieux

McCaskill
Roberts

The nomination was confirmed.

VOTE EXPLANATION

Mrs. BOXER. Mr. President, unfortunately I was unable to make this morning's vote on the nomination of Tanya Walton Pratt to be United States District Judge for the Southern District of Indiana. Had I been present for the vote, I would have voted aye on the nomination.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Elizabeth Erny Foote, of Louisiana, to be United States District Judge for the Western District of Louisiana?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Vermont is recognized.

TAX BREAK REPEAL

Mr. SANDERS. Mr. President, I have a pending amendment to the tax extenders bill and want to say a few words on that.

At a time when we have a record-breaking \$13 trillion national debt and an unsustainable Federal deficit, at a time when two out of every three corporations in America paid no Federal income taxes between 1998 and 2005, at a time when ExxonMobil, the most profitable corporation in the history of the world, not only paid no Federal income taxes in 2009 but actually got a \$156 million refund from the IRS, at a time when we desperately need to end our dependence on fossil fuel and transform our energy system, the amendment I am offering, along with Senator WYDEN, Senator WHITEHOUSE, Senator MENENDEZ, and Senator LAUTENBERG, is simple and straightforward.

This amendment simply repeals over \$35 billion in tax breaks to the oil and gas industry, all of which were recommended for elimination in President Obama's fiscal year 2011 budget, which the Joint Committee on Taxation has estimated would raise over \$35 billion in a 10-year period.

To put this in perspective, the taxpayer dollars saved by repealing these tax breaks represents about 1 percent of the total projected revenue of the oil and gas industry over this same time period. In other words, the cost of repealing these tax breaks for the oil and gas industry is negligible.

More than \$25 billion of the money saved under this amendment would be used to reduce the deficit. I hear my friends coming down every day, appropriately, talking about our record-breaking deficit and our huge national debt. Mr. President, \$25 billion in this amendment is used for deficit reduction.

Mr. President, \$10 billion would be invested in the highly successful Energy Efficiency and Conservation Block Grant Program over a 5-year period, which would go to 50 States in this country to help them move forward in terms of energy efficiency and sustainable energy.

This amendment has widespread support throughout this country from organizations representing millions of Americans, including the League of Conservation Voters, the Sierra Club, the American Council for an Energy Efficient Economy, Friends of the Earth, the Union of Concerned Scientists, Physicians for Social Responsibility, the American Public Health Association, moveon.org, Environment America, Oceana, 1 Sky, Greenpeace, Public Citizen, the Center for Biological Diversity, the Conservation Law Foundation, and 350.org.

In addition, the Energy Efficiency and Conservation Block Grant funding this amendment would provide is strongly supported by the U.S. Conference of Mayors, the National League of Cities, the National Association of State Energy Officials, and the National Association of Development Organizations, and I am pleased to report that Taxpayers for Common Sense and the National Wildlife Federation strongly support repealing the oil and gas tax breaks this amendment would eliminate.

Let me briefly explain why this amendment needs to be included in this overall legislation. First, there is no debate; everybody here understands we have to address the deficit crisis and the \$13 trillion national debt we face. Well, I say to my friends: If you are serious about doing this and doing it in a way that doesn't decimate the middle class or working families, this amendment is a good step forward: \$25 billion in deficit reduction over a 10-year period is significant and it would help us address a major crisis.

Secondly, we all understand—or I hope we all understand—we have to reform the Tax Code, which is grossly unfair today. We must make the Tax Code fairer and more equitable for ordinary Americans and, in my view, that means ending the absurdity of seeing large corporations, enormously profitable corporations, not pay their fair share of taxes and, in some cases, not paying any taxes at all. Each and every year, large and profitable corporations all over this country are able to avoid paying billions of dollars in Federal income taxes through loopholes in the Tax Code and generous tax breaks. This is simply unacceptable, it is unfair especially with a record-breaking

deficit, it is very poor public policy, and it has to be changed.

To highlight how absurd this situation has become, take a look at the August 2008 report on the subject by the Government Accountability Office or the GAO. According to this report—and I hope Americans hear this—two out of every three corporations in the United States paid no Federal income taxes from 1998 to 2005—two out of three. Amazingly these corporations had a combined \$2.5 trillion in sales but paid no income taxes to the IRS. This statistic includes one out of four large corporations. That is according to the GAO.

Further, according to a report from the Citizens for Tax Justice, 82 Fortune 500 companies in America paid:

zero or less in federal income taxes in at least one year from 2001 to 2003.

I am thinking now about working people in the State of Vermont and in the State of New Mexico or in Oklahoma, where people are making 10, 12 bucks an hour; people are working 40, 50, 60 hours a week; people who are paying their fair share of taxes. Yet we end up having these large multinational corporations making billions of dollars every year in profits and then they avoid paying their fair share of taxes. That is an issue we have to address.

This same report from Citizens for Tax Justice states:

In the years they paid no income tax, these companies earned \$102 billion in U.S. profits.

How is that? Not a bad deal: \$102 billion in profits, zero income taxes.

But instead of paying \$35.6 billion in income taxes as the statutory 35 percent corporate tax rate seems to require, these companies generated so many excess tax breaks that they received outright tax rebate checks from the U.S. Treasury, totaling \$12.6 billion.

How is that? They make huge amounts of money, don't pay any taxes, and then Uncle Sam gives them a rebate. That is quite the scam.

In other words, between 2001 and 2003, 82 of the largest, most profitable corporations in this country received a \$12.6 billion tax refund—tax refund—from the IRS when, if they were paying their 35 percent of corporate taxes as the law requires, they would have paid over \$35 billion in taxes. That is a net loss to the U.S. Treasury of \$48 billion.

It is not just Bernie Sanders who has strong concerns about this issue. The issue of abusive corporate tax breaks has even gotten the attention of *Forbes Magazine*.

Mr. INHOFE. Mr. President, will the Senator yield?

Mr. SANDERS. I will yield in a few minutes and be happy to discuss this issue with my friend.

Mr. INHOFE. Just one short question. Is the Senator talking about amendment No. 4318?

Mr. SANDERS. I am, but not yet. I will get to that in a moment.

Mr. INHOFE. OK.

Mr. SANDERS. Mr. President, the issue of abusive corporate tax breaks

has even gotten the attention of *Forbes Magazine*, which reported on April 1, 2010—this is *Forbes Magazine*—*Forbes* 500, dynamic capitalism, *Forbes Magazine*, and this is what they say on April 1, 2010:

As you work on your taxes this month, here's something to raise your hackles: Some of the world's biggest, most profitable corporations enjoy a far lower tax rate than you do—that is, if they pay taxes at all.

Forbes Magazine. This is not one of the more progressive journals in America.

So enough is enough. We can and must reduce the deficit in a way that does not harm the American middle class. Making sure that large and profitable corporations are not able to avoid paying taxes could significantly reduce the deficit. It is not the only thing we have to do, but it would be an important step forward.

As a first step in this direction, the amendment I am proposing today goes after the three most generous tax breaks enjoyed by the oil and gas industry and would raise over \$35 billion in revenue over a 10-year period—\$35 billion, 10 years. All of these tax breaks were recommended for elimination in President Obama's fiscal year 2011 budget request.

Specifically, this amendment eliminates the expensing of intangible drilling costs to raise over \$10.9 billion. It eliminates percentage depletion for oil and gas while saving over \$9.6 billion; and it eliminates the so-called manufacturing tax deduction for oil and gas production, saving over \$14.7 billion over the next decade, according to the Joint Committee on Taxation.

I want my colleagues to take a look at this chart, because what this chart tells us is that during the last 10 years, the five largest oil companies—ExxonMobil, Shell, BP, Chevron, TExaco, and ConocoPhillips—earned over \$750 billion in profits—10-year period, \$750 billion, the top five oil companies. During the first quarter of this year, big oil's profits increased by 85 percent. Providing tax breaks to this profitable industry at a time of record-breaking deficits simply does not make sense. We can't afford to do it.

Let me give one example of the absurdity of continuing to provide tax breaks to the oil and gas industry. I want my colleagues to take a look at this chart right here. As we all know, ExxonMobil was the most profitable corporation in the history of the world from 2006 through 2008, making \$40 billion in profits in 2006, \$41 billion in 2007, and \$45 billion in 2008. Not bad. These profits, among other things, enabled Exxon to provide a \$398 million retirement package to its former CEO, Lee Raymond.

In 2009, one of the most economically difficult years since the Great Depression—millions of people losing their jobs, their homes, their savings—ExxonMobil was still able to make \$19 billion in profits in the midst of a severe recession.

I have a question for my friends on both sides of the aisle to consider: Out of that \$19 billion profit, how much did ExxonMobil pay in taxes to the IRS? How much did they pay? How many billions of dollars? How many hundreds of millions of dollars did they pay? Well, the answer is: Zero, not one red nickel.

So all over America, working families are struggling to keep their heads above water. They pay their taxes. Yet we have a corporation, the most profitable in the history of the country, that last year made \$19 billion in profit, and they didn't pay a nickel in taxes.

But that is not, as they say, the whole story. It gets worse than that.

As this chart right here on my right shows, ExxonMobil reported to the SEC that not only did it avoid paying any Federal income taxes, it actually received a \$156 million refund from the IRS. Twenty-two percent of the children in this country live in poverty. We have record-breaking deficits. We have a \$13 trillion national debt, and ExxonMobil receives \$156 million in a tax refund after making \$19 billion in profits. This has to stop.

This amendment I am offering would begin to make sure that ExxonMobil pays at least a minimal amount of their record-breaking profits in taxes to the Federal Government. That is the very least we can do.

But ExxonMobil is not the only corporation enjoying these tax breaks. Chevron, the fourth most profitable oil company in America, a company that made a \$10 billion profit last year when other companies were fighting to stay alive, reported to the SEC that it received a \$19 million refund from the IRS. This is Chevron. I know. It is not as much as ExxonMobil, but a \$19 million refund after you make \$10 billion in profits, that is not too shabby.

Valero Energy, the 25th largest company in America with \$68 billion in sales last year, received a \$157 million refund check from the IRS, and over the past 3 years it received a \$134 million tax break from the oil and gas manufacturing tax deduction that this amendment seeks to eliminate. And on and on it goes. ConocoPhillips, et cetera, et cetera.

Let me very briefly turn to what this amendment would do with the revenues. In terms of deficit reduction, as I have indicated, the benefits are substantial. As we all know, the underlying bill we are debating today, which I support, would increase the deficit by about \$87 billion over 10 years. This amendment, my amendment, would cut that by about a third—\$25 billion over 10 years. This amendment importantly would also invest \$10 billion into the Energy Efficiency and Conservation Block Grant Program which, as I mentioned earlier, will create jobs, save people money on their fuel bills, and help transform our energy system away from fossil fuels.

I get a little bit tired of hearing my friends come to the floor of the Senate talking about the need to reduce our

deficit. I get a little bit tired of people talking about the need for equity. If we cannot address a situation where some of the most profitable corporations in America pay zero Federal taxes and, in fact, get a tax rebate, then I am not quite sure what this institution is doing.

So we now have an opportunity to move forward, to address our deficit crisis. We have an opportunity to move forward to transform our energy system. We have an opportunity in this amendment to create jobs and break our dependency on fossil fuel.

I ask unanimous consent that the Senate now proceed to a debate on amendment No. 4318; that the time for such debate be limited to half an hour equally divided; that once the time has expired on this debate, the Senate proceed to a vote on amendment No. 4318.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANDERS. Mr. President, I hear my friend's objection. I think that is unfortunate. The American people should be able to have a different vote and debate on this issue. But I hear what the Senator has said.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I think the regular order is to go out now. First, I suggest that I will want some time this afternoon to explain what this amendment really does and also to explain in some detail the marginal wells this would affect. The average marginal well in my State of Oklahoma is 2 barrels a day. We are not talking about giants here. This is a totally different situation. We will have an opportunity to pursue that after resuming the regular order.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 1:01 p.m., recessed, and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

The PRESIDING OFFICER. The Senator from Iowa.

ALTERNATIVE MINIMUM TAX

Mr. GRASSLEY. Mr. President, I wish to bring to my colleagues' attention the fact that we have this problem we deal with too often called the alternative minimum tax. I bring it to my colleagues' attention.

Last week, I had an opportunity to address my colleagues on the unfinished tax legislative business. These four items are the unfinished business to which I was referring. The legislation before the Senate deals with only one but, of course, an important piece of the unfinished legislative business. These tax extenders are on their second legislative stop through the Senate.

As the chart shows, the tax extenders, which are overdue by almost half a year, are not alone in that unfinished business. There are three other major areas of unfinished business. As we can see from the chart, we have the death tax with which we have not dealt. Another area is the 2001 to 2003 tax rate cuts and family tax relief package. Then the third area is the AMT patch, the alternative minimum tax.

Over the past few years, the AMT is frequently a subject of many of my addresses to my colleagues. I intend to keep talking about the AMT until this Congress actually takes action on reforming the AMT.

Instead of taking action, Congress this session has done absolutely nothing, and the problem continues to get worse for at least 26 million American families—let me emphasize middle-class American families—who will be caught in this AMT trap and, as a matter of fact, are now already caught.

Those being caught or are caught are the families who make estimated tax payments and who will be making their second payment this very day.

Last year, in 2009, a bit over 4 million families were hit by the alternative minimum tax. I think this was 4 million families too many, but it is considerably better than the more than 26 million additional families who will be hit this year in 2010 if Congress does not take action.

The reason we are experiencing this large increase this year is that over the last 9 years Congress has passed legislation that would temporarily—and only temporarily—increase the amount of income exempt from the alternative minimum tax. These temporary exemption increases have prevented millions of middle-class American families from falling prey to the alternative minimum tax until right now.

While I have always fought for these temporary exemptions, I believe the AMT ought to be permanently repealed. One reason I have previously given for permanent repeal is that it may be difficult for Congress to revisit the alternative minimum tax on a temporary basis every year. Of course, this current situation, now 6 months into this year, proves me right. Congress has yet to undertake any meaningful action on the alternative minimum tax.

The budget resolution, passed well over a year ago, provided revenue room for a short-term extension of the alternative minimum tax patch. That was a lot less than what President Obama's budget did, which made the patch permanent.

On this point, since too often people think I do not agree with President Obama enough, this is one point where I believe the tax policy of President Obama has it exactly right.

About 18 months ago, much to the criticism of some on the other side, I made the 2009 AMT patch an issue in the economic stimulus legislation. The reason I did is that 24 million middle-

class families would have, on average, paid \$2,400 more in income taxes for 2009 if the patch had been abandoned. For those 24 million people, paying \$2,400 more into the Federal Treasury would have been a real hurt. My 2009 AMT patch amendment was adopted in the stimulus legislation by the Finance Committee. That was 18 months ago.

Despite assurances the AMT relief is an important issue, nothing has actually been put forward as a serious legislative solution this year. Again, we can see the checklist chart. There has been no House committee markup or floor action, no Senate committee markup or floor action. This year is almost half done. A theoretical discussion is not a substitute for real action, to which anyone making a quarterly payment today will attest.

I am hopeful I can get folks on Capitol Hill rethinking about the AMT and realize that it is a real problem right now. Everyone seems to agree that something needs to be done quickly, but the discussion does not go any further than just discussion.

The second quarterly payment is due today. Today taxpayers across the country are under a legal requirement to pay their estimated taxes, and with it the additional money that would be owed because the AMT has not been patched. They would use form 1040-ES. I bet I will be here September 15 when the third payment comes due saying largely the same thing.

Congress does not seem to be under any pressure to actually take action. Many on the other side insist that, unlike new spending proposals or extensions of existing programs, AMT reform should happen only if it is revenue neutral. That means any revenues—I want to put quotes around these words—any revenues “not collected” through reform or repeal of the AMT must be offset by new taxes from somewhere else.

Notice I said “collected,” and I did not say “lost.” This distinction is important for the simple reason that the revenues we do not collect as a result of AMT relief are not, in fact, lost to the Treasury. The AMT collects revenues it was never supposed to collect in the first place. In other words, middle-class income people were not supposed to pay this tax in the first place—that is that 24 million—because this AMT was originally conceived as a mechanism to ensure that high-income taxpayers were not able to completely eliminate their tax liability. From that standpoint, even the AMT has failed because in 2004, IRS Commissioner Everson told the Finance Committee the same percentage of taxpayers continue to pay no Federal income tax as they did back in 1969. Even I think, on raw numbers, it is a much larger number. Back then it was only 155 taxpayers.

Today, at least 24 million to 26 million middle-class families are in these alternative minimum tax crosshairs. That is quite a change from the 155