

the side of commercial fishermen? Are we going to take the side of big oil or are we going to take the side of shrimp fishermen? Are we going to take the side of big oil or are we going to take the side of preserving the estuaries that are so critical yet that we see increasingly devastated, the wildlife, with consequences to those ecosystems that may very well affect a generation? Are we going to take a side with big oil or are we going to stand up for the tourism industry that is affected? Are we going to stand up for big oil or are we going to stand with the boater who ultimately sees his boat languishing in the waters because he cannot go out because there is no one to take out on a commercial venture? Are we going to stand up for the communities and the coasts along the gulf shore or are we going to stand with big oil?

That is what this effort is all about. It is about setting responsibility where responsibility should lie. I applaud that the President got BP to sign up to \$20 billion over the next 4 years or so. But that does not mean we should not be lifting the liability cap, a liability cap that is ridiculously low at \$75 million total when BP, for example, makes over \$90 million a day. So their liability under the law, regardless of what they say, is less than 1 day's profit.

The ACTING PRESIDENT pro tempore. The Senator has used 2 minutes.

Mr. MENENDEZ. This is about making sure at the end of the day we stand up to big oil. I know there are those who suggest—my colleague from Louisiana has suggested he has a better way. The problem is his better way is constitutionally infirm. That has been reviewed by the Congressional Research Service which says that trying to enact legislation that effectively declares the guilt or imposes punishment on an identifiable individual or entity is in essence a bill of attainder under the Constitution; therefore, it cannot work. I have heard him say I don't want to come here and make a speech, I want to solve something. That is exactly the problem. That does not solve anything because it is constitutionally infirm, therefore it would not apply, therefore we would not have a success. Besides, if it is good enough for this incident, it is good enough for any other.

Understanding that, I want to ensure we stand on the side with all of those commercial interests, so I ask unanimous consent—I take a final 30 seconds—I ask unanimous consent that the Environment and Public Works Committee be discharged of S. 3472, the Big Oil Bailout Prevention Unlimited Liability Act of 2010, and that the Senate proceed to its consideration; that the bill be read three times, passed, the motion to reconsider be laid upon the table, without intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. INHOFE. Reserving the right to object, this S. 3472, this is one with no caps?

Mr. MENENDEZ. This is unlimited liability.

Mr. INHOFE. Unlimited liability. Madam President, we have talked about this before. It sounds good to talk about big oil. This would be the greatest thing for big oil. Only the big five might—

The ACTING PRESIDENT pro tempore. The time of the Senator from New Jersey has expired. Is there an objection?

Mr. INHOFE. I object.

Now I wish to be recognized to explain my objection.

The ACTING PRESIDENT pro tempore. There are 2 minutes remaining on the majority's time that the Senator from Florida intends to use.

The Senator from Florida.

Mr. NELSON of Florida. Madam President, the oil is relentlessly moving east in the Gulf of Mexico. A week and a half ago it hit Perdido Pass. That is in Perdido Bay. A week ago it hit Pensacola Pass. It is in Pensacola Bay. You ought to see what it looks like. There are tar balls. We know what tar balls look like. You ought to see what the reddish brown gunk looks like that I saw on Monday as the wind was blowing it right toward downtown Pensacola.

Today, Destin Pass, further to the east, is being closed. But when it is closed by a boom it will not stop the oil if the oil is not already skimmed off out in the gulf because the tar balls will go right underneath the boom and the tides come rushing into the pass at 6 to 8 knots, and a boom will not stop the oil.

This is what we are facing. We are facing the economic devastation as a result of the despoiling of the coast that relies, so much of its economy, on that coast being pristine—whether it is tourism, whether it is fishing, whether it is oyster, shrimp, et cetera.

Why shouldn't the company—now that precedent has been set yesterday by them setting up a \$20 billion trust fund, but that is not a limit. Why should we not—has my time expired?

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. NELSON of Florida. If I may finish the sentence—why should we not allow any kind of future devastation by a company to have the same liability?

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. First, I do not disagree with anything that was said by my very good friend from Florida. It is a devastating thing. I have no love for BP. I assure you they are not any friends of this side over here. I only have to say this. If you want to shut out everyone from their exploration, it doesn't make any difference whether it is deep water or otherwise, you go ahead and do something like this. This would only help the big five or the national oil companies—that is China and Venezuela. Without a cap they would be the only ones who could explore out

there. Frankly, they don't have the capacity to do the amount of exploration that is going to be necessary to run this machine called America.

Right now there is a commission that is taking place. I believe they are going to be discussing all these things, including what types of caps, if any, should go on. They are the ones who are approaching this thing, considering everything. I think they should have time to do their own work. That is the reason. But I do not disagree with anything either one of the Senators said.

I yield the remainder of my time to the Senator from Nebraska.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNIS. Madam President, may I inquire how much time remains?

The ACTING PRESIDENT pro tempore. Eight minutes.

Mr. JOHANNIS. If I could be forewarned when there is a minute remaining?

The ACTING PRESIDENT pro tempore. Yes.

#### INCREASING EXPORTS

Mr. JOHANNIS. Madam President, I rise today to discuss an issue I believe is of significant importance to our Nation's economy. There has been a lot of talk lately about the whole idea of increasing exports. I—like, I guess, every other Member of this body—support the goal of expanding exports. Increasing exports means companies will sell more of their goods and services into more markets around the world. A number of those companies, I might add, are found in rural communities, found in States such as Nebraska. I was sitting there when President Obama, in his State of the Union Address, set a goal. He said: I want to double exports in the next 5 years.

Since then, the administration has pushed its National Export Initiative, which appears to be about increasing spending and the size of government. But a more sensible course of action would truly be to increase exports—sell more. I am talking about free trade agreements. The previous administration negotiated a number of trade agreements, but there are three pending from the previous administration: Colombia, South Korea, and Panama. Unfortunately, these agreements have been languishing since they were first agreed to—now around 3 years ago.

The current administration briefly seemed to be on the right track when the President stated his goal of strengthening trade with Colombia, South Korea, and Panama, again in the State of the Union Address. I was pleased to hear that. The President hit the right tone there. I must admit, though, up to that point, the administration's trade policy was enormously unclear to me, and I guarantee it was to everybody else.

I thought that finally we had a trade policy. But, unfortunately, since that speech there has been no action. So I

have to ask, What is the holdup? I do not know how you can claim your goal is to double exports and then not take the action on pending trade agreements which provide the very direct, ready-made way to move us forward. Each one of these agreements lowers tariffs on America's goods and services. I will tell you from a lot of experience, that is the quickest way to increase exports. With U.S. unemployment now hovering around 10 percent, we should be focused like a laser beam on helping businesses grow and create jobs. Enacting the pending trade agreements will help us get there.

The U.S. Chamber of Commerce estimates that these agreements could bolster our economy by \$40 billion. Conversely, if the United States fails to implement the agreements with Colombia and Korea, the chamber estimates that more than 380,000 U.S. jobs will be lost or displaced.

The trade agreements were negotiated nearly 3 years ago. Yet they have not come to the Congress. While we fail to act, our global competitors are locking up these marketplaces. Several nations are negotiating or finalizing negotiations with the same three countries. Yet our agreements with those same countries are signed and sealed and ready for a vote. Our competitors are, very simply, gaining an advantage over our producers, our exporters, our employees, and they are laughing all the way to the bank. Now we even have representatives from those countries saying they are ready to move forward without us.

Earlier this week a respected publication, the Des Moines Register, quoted the Minister of Economic Affairs at the South Korean Embassy as saying this:

The U.S. runs the risk of losing the Korean market within a decade if you can't get a free trade agreement ratified.

Furthermore, the article reported that South Korea is likely to complete a free trade agreement with the European Union by January. So we are not just at risk of losing the opportunity to increase exports. If other countries keep negotiating trade agreements while this great Nation sits on its hands, we are going to lose the market share we have today.

I suspect this is just the beginning. These countries are not going to wait around forever while we twiddle our thumbs and hope that throwing money at a few government agencies and hiring more government employees will somehow increase exports.

Each nation we have sat down with, we have negotiated, we have found common ground and reached agreement. Now it is time for the final step. The step is to vote on the agreements.

Think of the big picture. Roughly 95 percent of the world's consumers live outside the United States. The global marketplace is asking for us to go and do business there. It is important to agriculture, but it is also important to our entire economy. You see, in agri-

culture, exports account for over 25 percent of total ag sales. We like to say that every third row of crops is sold into the international marketplace. In fact, agriculture is one of the few areas where the United States has had a net trade surplus in recent years.

These agreements are necessary for agriculture, for farmers and ranchers. They are good for small businesses in my State and across the country. As Secretary of Agriculture, I traveled the world helping to negotiate trade deals. I have seen the positive results for exporters. I have seen firsthand the importance of these pending agreements. Each one would level the playing field for America's farmers and ranchers and companies, creating jobs, helping to reinvigorate our economy. If we are going to meet this goal of doubling exports, we have to do more than give a speech. We have to take these agreements and put them into the equation and get a vote on that.

Consider this: American producers are currently forced to pay substantial tariffs on their exports to Colombia, to South Korea, to Panama. These agreements would wipe out most if not all of those tariffs. Roughly \$2.8 billion in tariffs on American exports has been paid to Colombia alone since the Colombian agreement was signed in November of 2006.

That is \$2.8 billion that could have stayed in the United States to hire new workers. Most Americans probably assume Colombian exporters pay the identical U.S. tariffs, but that is not the reality.

Colombian producers do not pay a nickel on 90 percent of the products they sell in the United States. The Colombian Free Trade Agreement would allow American producers to compete on a level playing field.

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. JOHANNES. In South Korea, it is the same story. And I could go on and on through each agreement and show that what they are about is bringing tariffs down for our products that we are paying today.

Well, I have given this speech now I think twice on the floor of the Senate and a number of times as I have been out and talked to people across this country. I hope this is the last time I need to come here to advocate just to give us a vote. My hope is the administration will send these agreements to the Congress for action.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will resume consideration of the House message to accompany H.R. 4213, which the clerk will report.

The legislative clerk read as follows:

Motion to concur in the House amendment to the Senate amendment with an amendment to H.R. 4213, an act to amend the Internal Revenue Code of 1986, to extend certain expiring provisions, and for other purposes.

Pending:

Baucus motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Baucus Amendment No. 4369 (to the amendment of the House to the amendment of the Senate to the bill), in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, once again, we are here today to try to help create jobs. That is what the underlying bill and substitute amendment are all about.

But the Thune amendment would move in the wrong direction. Instead of helping to create jobs, the Thune amendment would probably cost jobs.

The Thune amendment would reduce aggregate demand in the economy by more than \$50 billion. Instead of continuing the good that the Recovery Act has done, the Thune amendment would stop it in its tracks.

The Thune amendment would, among other things, cancel unspent and unallocated mandatory spending in the Recovery Act.

The Recovery Act is working.

This is what the nonpartisan Congressional Budget Office said in its most recent report:

CBO estimates that in the first quarter of calendar year 2010, [the Recovery Act's] policies:

Raised the level of real . . . gross domestic product . . . by between 1.7 percent and 4.2 percent;

Lowered the unemployment rate by between 0.7 percentage points and 1.5 percentage points;

Increased the number of people employed by between 1.2 million and 2.8 million; and

Increased the number of full-time-equivalent jobs by 1.8 million to 4.1 million compared with what those amounts would have been otherwise.

And the Congressional Budget Office projects that the Recovery Act will continue to create jobs. CBO projects that the Recovery Act will create the most jobs in the third quarter of this year. And then it will begin to taper off.

We should not cut that job creation off. In this fragile economy, the last thing that we should want to do is to cut back this proven job creator.

We passed the Recovery Act to give a needed boost to our economy. We designed the bill to work over 2 years. If we were to withdraw these critical funds, we would risk causing further damage to a fragile economy.

The Thune amendment would also cut other important spending programs.

The Thune substitute amendment would cut discretionary spending by 5 percent across the board for all agencies, except for the Department of Veterans Affairs and the Department of Defense.