

maybe recoup some money from people, so far they have only done 5,000 of these cases. Out of the 5,000 cases they have reviewed, only 18 cases, 18 total out of 5,000—out of 5,500 cases—would be impacted by my bill.

So we are talking a very small percentage. We are talking three-tenths of 1 percent is what we are talking about here. This is a very tiny, very narrow exception. I am for recoupment as much as anybody. I think it is very important that the government do it right and do it right the first time. If there is some sort of fraud or some sort of misrepresentation, then the government absolutely should go after that money and try to recoup as much of that as possible.

What we are talking about here is in 99.7 percent of the cases they can pursue recoupment. But based on the numbers we have today, it is three-tenths of 1 percent of the time where the mistake is completely on FEMA's side of the equation, and we would say no, as a matter of fairness and as a matter of equity, then they cannot seek recoupment in these cases.

To me this is a matter of equity. This is a situation where this particular couple in Arkansas—and we have other couples, we have other families too—we know of a total of four in our State who fall into this category. So we only have four out of how ever many thousands have received FEMA payments over the years. But nonetheless, this is a matter of equity because if you look at this couple I am talking about here in Arkansas near Mountain View, they basically would never have done this. They would have made other arrangements 3 years ago.

I do not know if they would have gone to the bank. I do not know if they would have gotten a second mortgage. I do not know if they would have sold the property and moved out. I do not know. They do not want to think about it. Because this FEMA check actually allowed them to stay in their house.

Now they are coming back in a worse condition than they were before because FEMA says, you have 30 days to pay this back. The fact they have not paid it back yet and that they filed an appeal with FEMA to try to work this process to get some relief, which FEMA, apparently, very seldom if ever grants—the fact that they filed this paperwork means that they have a little extension on the principle load. But it is very clear from the correspondence from FEMA that now interest is accruing. So interest is accruing on these folks.

Again, I think they are in a worse situation today than they would have had FEMA said no 3 years ago as they should have done. To me this is a matter of equity. I think if we were in a court, you might use the word estoppel. I think the Federal Government should be estopped in this situation from pursuing this money, because there was detrimental reliance on the part of the family.

They did not ask for this. FEMA showed up at their house. FEMA took pictures. FEMA helped them fill out the paperwork. FEMA walked them through the process. They do exactly what they are supposed to do. They put it in the house. It saves their house and gives them the ability to stay there. And now 3 years later, they get a letter basically saying, notice of debt, you owe FEMA \$27,000. Well, you can imagine, this is devastating for a family on Social Security who has very few other means. Again, if they qualified for this in the first place, you know they are not high-income folks. And \$27,000 at this stage of life for them is a lot of money. It is a mountain that is too tall to climb.

What I would love for my colleagues to do is look at what we are going to offer in the committee. I hope you can support it. We will be glad to answer any questions if any of my colleagues want to talk about it today or in the hallways here in the Senate over the next couple of days as we are working through this.

I certainly want to thank Senator LIEBERMAN for allowing us to put it on the markup. I think folks around here rightly are in a recoupment mode. They want to recoup money that has been wrongly paid out. And, again, I am for that 100 percent. In fact, we had a hearing in one of the Homeland Security subcommittees the other day about recoupment. We have talked about this. This is very important that we stop the bleeding and the government not pay out more money than they should. But in this particular case, I think the principle of equity and fairness is certainly on the side of these folks who again, as I said, are twice the victims. They were first victimized by the storm, and second they are victimized by their own government.

I yield the floor and I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

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

#### NATIONAL ENERGY POLICIES

Mr. BINGAMAN. Mr. President, yesterday I introduced two bills on a subject of great importance—two different subjects—related to our national energy policy. The two bills were the Oil and Gas Facilitation Act of 2011. The second was the Outer Continental Shelf Reform Act of 2011.

Both of these bills are based on bipartisan, largely consensus work, that was

done in the Committee on Energy and Natural Resources during the last Congress. I should note that these important issues are being addressed in separate bills very consciously and for a reason. In the past we have crafted comprehensive energy bills that attempted to address all of the energy policy issues of the day in a single piece of legislation. There are obvious advantages to that. But there are well-documented disadvantages as well. I wish to avoid those disadvantages this year in furtherance of completing our important work.

There is no disagreement in the Senate about the need to have robust and responsible domestic production of oil and gas. At the same time, there is probably considerable disagreement about how best to address that issue. We need to begin work on that. However, ensuring the safety and viability of our operations on the Outer Continental Shelf is a separate matter which deserves attention on its own. The question of how we undertake oil and gas exploration and production on the Outer Continental Shelf appropriately, in my view, stands apart from the question of where we undertake those activities.

I do not believe it would make sense to try to trade off safety or environmental protections against the issue of access, for example. I believe the Congress should set an appropriate level of safety and environmental compliance, regardless of where the oil and gas exploration and production is occurring.

I will also observe that there was much greater consensus on the need to reform the rules governing Outer Continental Shelf production in the last Congress than on other issues such as those related to access to particular areas. So conflating these separate issues in the one bill is not likely to be the best path to success in enacting a bill into public law. Accordingly, we have introduced two bills.

That is not to say we don't have a responsibility to address both issues. We do. I believe they should be addressed on parallel tracks and not in combination. I hope to be able to move forward in the committee with consideration of both of these bills later this month.

The first of the bills, the Oil and Gas Facilitation Act, is intended to enhance sufficient and appropriate domestic production of oil and gas and to limit the dependence of the United States on foreign sources of oil.

The last 2 years have been a time of real success in increasing our domestic production of both oil and gas and in reducing our reliance on imported oil. We are currently the third largest producer of oil in the world. The percentage of the oil we use that is imported has declined from 60 percent in 2008 to about 51.5 percent in 2009 and to about 49 percent in 2010. We want to be sure we continue this progress while protecting our other natural resources and our communities' health and safety.

This bill, the Oil and Gas Facilitation Act, addresses production issues in

a variety of ways. It requires a comprehensive inventory of the oil and natural gas under the waters of the Outer Continental Shelf to inform decisions about where leasing is likely to be most productive. To improve the efficiency of the permitting process for development on Federal lands and waters, permit coordination offices are reauthorized, and a new coordination office is established for the Alaska region of the Outer Continental Shelf.

Two provisions facilitate the transportation of Alaska's abundant oil and gas resources. The amount of Federal guarantee instruments is increased to support the construction of an Alaska natural gas pipeline and the Trans-Alaska oil pipeline system is exempted from certain requirements that unnecessarily slow the permitting process.

Coproduction of geothermal energy by existing oil and gas leaseholders is encouraged by making leases available for that purpose on a noncompetitive basis.

Finally, the bill will potentially contribute millions to the Federal Treasury by repealing the current law that requires the Secretary of the Interior to give relief from royalty payments to certain offshore oil and gas production. This bill would allow the Secretary to provide such relief in appropriate circumstances, but it would not require such relief. This avoids inappropriate giveaways of taxpayer-owned oil and gas resources to industry when it is unnecessary for us to maintain robust domestic production.

These provisions are drawn almost verbatim from S. 1462 which was reported by our committee on a bipartisan basis in the last Congress. The one significant change is that certain funding for the offshore oil and gas inventory provided by S. 1462 is redirected by the committee in subsequent legislation to be used for research on safety issues related to offshore oil and gas drilling. To avoid spending the same money twice, we have eliminated that funding here so it could be included in offshore safety legislation. At the same time, the bill retains the authorization of significant appropriations to be used for this oil and gas inventory.

The Outer Continental Shelf Reform Act is the other bill I am introducing. It is a verbatim reproduction of S. 3516 which was reported unanimously by our Energy Committee in the last Congress. Because of the widespread support for this bill, I have reintroduced it exactly as reported, since I believe it is a good place to begin our work this year. It will need a bit of updating as we move forward. A few of the provisions have largely been overtaken by events and we have learned from the President's Oil Spill Commission and others about some refinements we should make in this legislation.

I have been having discussions with Senator MURKOWSKI and others who supported last year's bill and I will continue those discussions as we move

forward. I hope we will have the same strong bipartisan support for these efforts as we did last year when we reported this bill during the midst of the worst oilspill in our Nation's history. Our commitment to responsible operations in the gulf and protection of our citizens and communities should be well understood by all.

This bill is intended to respect those who lost their lives in the Deepwater Horizon accident and respect the people of the gulf who have suffered serious economic and emotional harm by doing what we can to create a better future for them. It is the particular responsibility of the Committee on Energy and Natural Resources to look at the future of the regulatory agency and the industry it regulates. As I said last year when we introduced this bill, our goal must be, of course, to prevent future disasters, but we can and must do more than that. Congress should create organizational resources and a set of requirements that will have safety and environmental protection and innovation at their core. We should require that both industry and agency employees have the expertise, the experience, and the commitment to quality that is necessary to handle the complex issues involved, and we should set principles in place to create a culture of excellence for the regulatory agency and for the industry that will be a model for the entire world.

Thus, this bill reforms the structure of the offices of the Department of the Interior dealing with offshore oil and gas leasing and development to avoid organizational conflicts of interest. It clarifies the breadth of the Department's responsibilities in managing the resources of the Outer Continental Shelf.

It increases the safety requirements for exploration and well drilling and production. It mandates use of best available technology, an evidentiary safety case, and a risk management system that identifies and addresses hazards in advance and manages for change. It provides for third-party review by qualified parties outside the agency of key equipment and well design.

It addresses the essential need for the Department of the Interior to have in-house research capacity on both the safety and the marine environment issues necessary for the exercise of its regulatory authority. Research departments in these areas will no longer be optional, but are required, and funding is redirected from other areas of research to ensure this will happen.

In order to ensure that the rules are enforced, the bill requires the collection of fees from industry to fully fund the necessary teams of inspectors. It provides for independent investigations of accidents and the sharing of data so that all can learn from mistakes. It also provides the Department of the Interior with adequate time to carry out necessary reviews and it makes the input of other Federal agencies occur

in a transparent way. And it increases the civil and criminal penalties applicable to violations of the law and regulations.

I believe these policies and resources can set us on a new and constructive path toward managing the incredible natural resources we have on the Outer Continental Shelf. We must commit ourselves to the goal of excellence in this important endeavor. The fact that oil is no longer gushing into the Gulf of Mexico in no way diminishes the importance of this work.

Both of these bills address issues of great national importance. We will shortly be scheduling the necessary hearings and preparing these bills for committee consideration. If at all possible, we will do so before the Memorial Day recess. I look forward to working with my colleagues on the Energy and Natural Resources Committee and in the rest of the Senate on a bipartisan basis as we have in the past to address the vital issues presented by both of these bills.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### RECESS

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

Thereupon, at 12:36 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

#### EXECUTIVE SESSION

NOMINATION OF EDWARD MILTON CHEN TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Edward Milton Chen, of California, to be United States District Judge for the Northern District of California.

The PRESIDING OFFICER. Under the previous order, there will be 3 hours of debate equally divided in the usual form.

The Senator from Iowa is recognized. Mr. GRASSLEY. We are on the nomination; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. Mr. President, I rise today to speak in opposition to Magistrate Judge Chen, the President's