

less than 5 months. We all know why they were delayed a little bit. The President can take just as much responsibility as anybody. In testimony this week, the Attorney General acknowledged the issue of the recess appointments made on January 4 is a serious constitutional issue that needs to be decided by the courts. While that is being done, we have not tried to stop the action of the Senate, even though we regard it as a great offense to the checks and balances and the separation of powers.

I respectfully suggest it is not a good time for the majority leader to take a small disagreement and escalate it into a big one, jeopardizing our ability to deal with big issues on jobs, cybersecurity, the Postal Service, and others. It would not reflect well on the 23 candidates running for the Democratic Senate seats this year or on the 11 Republicans running for Senate seats this year, and it would not reflect well on the President.

The American people want to see us get results. Why should we give them one more reason to suspect that just because we can't agree on little issues, we are unable to agree on the big issues? I know the job of the majority leader is a tough job, and there is a good deal of back and forth every day. The majority leader has been on both sides of this issue. I suspect if he and the Republican leader were to sit down and look over the actual numbers and realize it is just 11 judges—we confirmed 2 last week—they could schedule the others and we could spend our time, starting tomorrow, not picking a fight with one another on the small disagreements, but on jobs, debt, the Postal Service, cybersecurity, and the big issues the American people would like us to deal with.

I ask unanimous consent that some documentation about the progress of district judge nominations of the 111th and 112th Congress be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE PROGRESS OF DISTRICT COURT NOMINATIONS SUBMITTED TO THE SENATE IN THE 111TH AND 112TH CONGRESSES

111TH CONGRESS

Of the 78 District Court Nominees made by President Obama during 2009 and 2010, 76 were eventually confirmed. That's 97%. 44 were confirmed in 2009 and 2010. 32 were resubmitted to the Senate and confirmed in 2011. One was withdrawn by the President and another was never resubmitted after being returned to the President.

112TH CONGRESS

99 nominations have been sent to the Senate by President Obama to date in the 112th Congress (2011 and 2012). 61 have been confirmed. 17 have been reported by the Judiciary Committee and await floor action: David Nuffer (UT)—October 2011; Gina Groh (WV)—October 2011, Susie Morgan (LA)—November 2011, Kristine Baker (AR)—November 2011, Michael Fitzgerald (CA)—November 2011, Ronnie Abrams (NY)—November 2011, Rudolph Contreras (DC)—November 2011, Miranda Du (NV)—November 2011, Gregg Costa

(TX)—December 2011, David Guaderrama (TX)—December 2011, Brian Wimes (MO)—December 2011, George Russell (MD)—February 2012, John Lee (IL)—February 2012, John Sharp (IL)—February 2012, Mary Lewis (SC)—March 2012, Jeffrey Helmick (OH)—March 2012, Timothy Hillman (MA)—March 2012. 2 have had Committee hearings and are waiting for mark-ups. 3 have Committee hearings scheduled. 10 have had no Committee action taken on their nominations. 5 were returned to the President (under Rule 31) and not resubmitted. 1 was withdrawn by the President.

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

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

Mr. MENENDEZ. Mr. President, I ask unanimous consent that I be permitted to speak for up to 10 minutes as in morning business.

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

NAT GAS ACT

Mr. MENENDEZ. Mr. President, I have come to the floor to talk about an amendment I will offer later today—the NAT GAS Act.

What if I were to tell the Chair there was a transportation fuel that is over \$1.50 cheaper than gasoline and roughly \$2 cheaper than diesel? What if I were to tell the Chair this fuel is also cleaner and has fewer smog-causing pollutants than diesel and, if wisely used, could reduce the cases of asthma and lung cancer?

What if I were to tell the Chair this fuel is abundant right here in America, so much so that we may soon become one of the world's largest exporters of this fuel? I think I might hear him say: Sign me up. What is the name of this wonderful fuel? The name of this fuel is natural gas.

We can see in this chart that as gasoline prices are already skyrocketing toward \$4 per gallon, the price of compressed natural gas is barely above \$2 equivalent. Natural gas prices used to follow oil prices, but now they are on their own stable, inexpensive price levels. The same holds true for liquefied natural gas. As we can see, gas prices here, liquefied natural gas down here. Diesel prices now exceed \$4, and LNG is still hovering around a \$2 equivalent.

Why aren't we all driving around in natural gas vehicles, paying a little over \$2 per gallon equivalent? The reason this inexpensive fuel is not widely used is because there are not many natural gas vehicles in the United States, and there are also very few places to refuel. Currently, there are nearly 14 million natural gas vehicles in the world but only about 117,000 in the United States. The car and truck

manufacturers want to see that the natural gas utilities will invest in refueling infrastructure, and the natural gas utilities want to see more natural gas vehicles on the road. It is a classic chicken-or-the-egg problem.

What both the manufacturers and the utilities need to see is a strong stance by the Federal Government to jumpstart this market.

The NAT GAS Act will do that by jump-starting the industry and, in 10 years, add over 700,000 natural gas vehicles to our roads and help incentivize the installation of refueling stations around the Nation. In addition, it is estimated the bill will displace over 20 billion gallons of petroleum fuel and create over 1 million direct and indirect jobs.

I know what some of my colleagues are thinking: Isn't this just another handout to energy companies? The answer to that question is a resounding no. This legislation is fully paid for with a small fee on natural gas used as a vehicle fuel. As I mentioned earlier, natural gas is over \$1.50 cheaper than gasoline or diesel. This amendment would use some of those savings to help overcome the market barriers for natural gas vehicles and supporting infrastructure. The fee starts at 2.5 cents per gallon equivalent in 2014 and grows to be 12.5 cents in 2020 and 2021. In 2022, the fee is eliminated. In this way, we can still keep natural gas less expensive than other fuel options, while investing in infrastructure to help grow the market, make natural gas vehicles cheaper, and put the industry on a path to flourish on its own.

While the legislation itself is designed to provide a temporary boost, it is important to note that the natural gas supplies we are sitting on are enormous. North America's natural gas resource discoveries have more than doubled over the past 4 years, meaning that at the current rate of consumption, this resource could supply current consumption for over 100 years. If we do not use our natural gas here in America, it will be exported abroad, benefiting consumers in other countries, while American families will continue to pay higher prices at the pump. Already, one U.S. facility has received a permit to export natural gas and four more are following suit. We can use that natural gas in the United States to displace oil. We are sending trillions of dollars abroad to countries that are despotic and wish us ill or we can export it so other countries can gain the benefits. I say we use it here.

The NAT GAS Act will also increase our Nation's energy independence and make us less dependent on regimes that do not have America's interests at heart. This is especially important at a time when Iran is attempting to develop a nuclear weapon and is threatening to block oil supplies. Natural gas is not the only solution, but it can be an important part of a solution that will allow us to ignore future OPEC threats because we have alternatives to

oil. But until we get to that point, we need to do all we can to supplant oil.

It is also important to note that natural gas vehicles are an important way to improve air quality. According to the EPA, natural gas as a vehicle fuel has very low emissions of ozone-forming hydrocarbons, toxins, and carbon monoxide. By producing less of these harmful emissions, natural gas vehicles can reduce smog in our cities and lower incidents of asthma and lung cancer. These health benefits are one reason why Los Angeles County has made almost its entire fleet of 2,200 buses run on compressed natural gas.

Let me talk about one issue some are concerned about. While natural gas vehicles can have important environmental and health benefits, we must also keep in mind that natural gas is still a fossil fuel and there are serious risks that need to be weighed when it is extracted. For that reason, I think we need to do better to regulate a practice called fracking. I also believe these risks mean that certain environmentally sensitive areas remain off-limits for fracking, and I will continue to work with my colleagues, such as Senator CASEY, to better formulate Federal rules to protect our drinking water from possible contamination. At the same time, we should not kid ourselves. This amendment will not cause natural gas vehicles to be the main driver of natural gas demand, and fracking is used to extract oil as well. So voting against this amendment will not reduce the amount of fracking.

We cannot let this opportunity to use this cheaper fuel to increase our energy security, improve our air quality, and relieve the pain at the pump slip by. It is time to put in place the temporary, fully paid for incentives of the NAT GAS Act to allow the natural gas vehicle industry to flourish. Remember, if one votes against this amendment, they cannot go home and tell their constituents that they have done everything they can to reduce gas prices.

I hope our colleagues will join us when the time comes to offer the amendment on the floor and to support it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

#### TOLLING FEDERAL HIGHWAYS

Mrs. HUTCHISON. Mr. President, I want to speak for a moment about an important issue that is going to be addressed on the highway bill. I have an amendment that would basically say you cannot toll a Federal highway unless it is for the production of another free lane. This is an effort to curb a

State from tolling every lane of a highway that has been built with Federal dollars by Federal taxpayers.

When President Eisenhower established the National Highway System, it was on behalf of national security that he made this monumental policy decision which has taken us years, tens of years to complete. It has had the added advantage of commerce—having a National Highway System where all of our States are connected with good quality Federal highways has been a huge boon for our country. That has been funded through highway user fees. The gasoline tax that everyone pays at the pump in our country has funded our Federal highway system.

However, the Federal highway system has now been completed. For a State to come in and toll every lane of an existing Federal highway is not only disingenuous, but it breaks faith with the Federal taxpayers who, for over 50 years, have paid into the highway trust fund so we would have a Federal highway system for all Americans and for the commerce among our States for them to use. Now, we have three States that have been approved by the Department of Transportation to do exactly what I wish to prohibit—toll lanes of an existing Federal highway. That would prohibit the free use of that whole highway that has been built with Federal dollars. My amendment would keep us from going beyond the three. The amendment is two. I would extend it to three because there are three that the Department of Transportation has approved, but I want to stop this practice from going further. It is wrong for the Federal Government to allow it, it is wrong for the States to ask for it. Instead, we need to allow the opposite, the opt-out ability for a State to say we want to spend our highway dollars on our priorities. That is what we ought to be doing.

I do not disagree with tolls that are going to create a new free lane. That would keep the faith with the people. It would expand the system and the people would be paying to expand the system. That can be done in an effective and, frankly, a responsible way. On the issue of allowing States to opt-out—Senator PORTMAN has put in an amendment that I would support, except that he goes a little bit too far. Senator PORTMAN and Senator COBURN have amendments that would allow an opt-out from the whole Federal highway fund, which includes transit. I think that goes too far.

I have a bill that would allow the opt-out of States that would be able to spend their highway funds the way they believe their priorities are set, but the 20 percent of the highway trust fund that goes for transit I think should be kept for the urban areas that need that kind of bus transportation, as well as intra-city and commuter rail. I think we ought to be able to keep that at the Federal level to determine what are the worthy grants. That

is what the highway trust fund now does.

The Portman amendment would take that away and put it into the State highway department. That sounds good on the surface, but highway departments have, in general—certainly I can speak from the experience of my State—not focused on or prioritized mass transit. This is one of the reasons why our cities in Texas are clogged—and in Houston and Dallas and San Antonio and Austin it is getting worse.

I wish to see those cities be assured that transit funding would go forward as it is envisioned or I would be happy to amend my bill to say the 20 percent of transit funding could be opted out but it would have to go for transit funding in the States and the States could then set the priorities. But transit should not be shortchanged by the highway departments that have not prioritized mass transit.

I think we need to work a little more. I could not support the Portman amendment the way it is written, but I want to gather the people who believe that we should have an opt-out of our highway funds and get a stronger mass—which I think Senator COBURN and Senator PORTMAN would do, if they would take the transit out of their amendment.

I think we have some work to do. I wish to support the Portman amendment but not in the form it is at present. I hope down the road other States will want to be able to opt out as well. But for now, I hope we will be able to stop the tolling of our Federal highways as a first step to keep faith with the American taxpayers who, for 50 years, have built the Federal highway system and deserve to be able to drive to any State on a Federal highway without being shut out by States that decide to put a toll on it for their own purposes. These are Federal highways built with Federal tax dollars and they should be open to every taxpayer in America to use those freeways for commerce. I hope my amendment will be considered.

I yield the floor and 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.

The ACTING PRESIDENT pro tempore. The Senator from California.

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

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

#### MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report.