Mr. ALEXANDER. Madam President, I ask unanimous consent to speak as in morning business for 10 minutes, and I would ask the Chair to please let me know when 8 minutes has expired.

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

PAYROLL TAX EXTENSION

Mr. ALEXANDER. Madam President, there are reports in some of the newspapers this morning that there is an effort to try to slip into the negotiation about extending the payroll tax break for the next year a big loophole for the rich and for the investment bankers and for most of the people President Obama keeps talking about as people whose taxes he would like to raise. What I mean by this is I have heard there may be an effort to put into the payroll tax agreement a 4-year extension of the so-called production tax credit, which is a big tax break for wind developers. I cannot think of anything that would derail more rapidly the consensus that is developing about extending the payroll tax deduction than to do such a thing. We are supposed to be talking about reducing taxes for working people. This would maintain a big loophole for investment bankers, for the very wealthy, and for big corporations.

We hear a lot of talk about Federal subsidies for Big Oil. I would like to take a moment to talk about Federal subsidies for Big Wind—$27 billion over 10 years. That is the amount of Federal taxpayer dollars between 2007 and 2016, according to the Joint Tax Committee, that taxpayers will have given to wind developers across our country. This subsidies comes in the form of a production tax credit, renewable energy bonds, investment tax credits, federal grants, and accelerated appreciation. These are huge subsidies. The production tax credit itself has been there for 20 years. It was a temporary tax break put in the law in 1992. And what do we get in return for these billions of dollars of subsidies? We get a puny amount of unreliable electricity that arrives disproportionately at night when we don't need it.

Madam President, residents in community after community across America are finding out that these are not your grandma's windmills. These gigantic turbines, which look so pleasant on the television ads—paid for by the people who are getting all the tax breaks—look like an elephant when they are in your backyard. In fact, they are much bigger than an elephant. They are three times as tall as the sky boxes at Neyland Stadium, the University of Tennessee football stadium in Knoxville. They are taller than the Statue of Liberty in the home State of the Presiding Officer. The blades are as wide as a football field is long, and you can see the blinking lights that are on top of these windmills for 20 miles.

In town after town, American residents are complaining about the noise and disturbance that come from these giant wind turbines in their backyards. There is a new movie that was reviewed in the New York Times in the last few days called ''Windfall'' about residents in upstate New York who are upset and have left their homes because of the arrival of these big wind turbines. The great American West, which conservationists for a century have sought to protect, has become littered with these giant towers. Boone Pickens, an advocate of wind power, says he doesn't want them on his own ranch because they are ugly. Senator KERRY, Senator Kennedy, Senator WARNER, and Senator SCOTT BROWN have all complained about the new Manhattan Island sized wind development which will forever change the landscape off the coast of Nantucket Island.

On top of all that, these giant turbines have become a Cuisinart in the sky for birds. Federal law protects the American eagle and migratory birds. In 2009, Exxon had to pay $600,000 in fines when oil developments harmed these protected birds. But the Federal Government so far has refused to apply the same Federal law to Big Wind that applies to Big Oil, even though chopping up an eagle in a wind turbine couldn't be any better than its landing and dying on an oil slick. And wind turbines kill over 400,000 birds every year.

We have had some experience with the reliability of this kind of wind power in the Tennessee Valley Authority region. A few years ago TVA built 30 big wind turbines on top of Buffalo Mountain. In the Eastern United States, onshore wind power only works when the wind turbines are placed on the ridge lines of Americas most scenic mountains. So you will see them along the areas near the Appalachian Trail through the mountains of scenic views we prize in our State. But there they are, 30 big wind turbines to see whether they would work. Here is what happened:

The wind blows 19 percent of the time. According to TVA's own estimates, it is reliable 12 percent of the time. So TVA signed a contract to spend $60 million to produce 6 megawatts of wind—actual production of wind—over that 10-year period of time. It was a commercial failure.

There are obviously better alternatives to this. First, there is nuclear power. We wouldn't think of going to war in sailboats if nuclear-powered submarines and aircraft carriers were available. The energy equivalent of going to war in sailboats is trying to produce enough clean energy for the United States of America with windmills.

The United States uses 25 percent of all the electricity in the world. It needs to be clean, reliable electricity that we can afford. Twenty percent of the electricity that we use today is nuclear power. Nearly 70 percent of the clean electricity, the pollution-free electricity that we use today is nuclear power. It comes from 104 reactors located at 65 sites. Each reactor consumes about 1 square mile of land.

To produce the same amount of electricity by windmills would mean we would have to have 186,000 of these wind turbines; it would cover an area the size of West Virginia; we would need 19,000 miles of transmission lines through backyards and scenic areas; so 100 reactors on 100 square miles or 186,000 wind turbines on 25,000 square miles.

Think about it another way. Four reactors on 4 square miles is equal to a row of 50-story tall wind turbines along the entire 2,178-mile Appalachian Trail. Of course, if we had the turbines, we would still need the nuclear plants or the gas plants or the coal plants because we would like our computers to work and our lights to be on when the wind doesn't blow, and we can't store the electricity.

Then, of course, there is natural gas, which has no sulfur pollution, very little nitrogen pollution, half as much carbon as coal. Gas is very cheap today. A Chicago-based utility analyst said: Wind on its own without incentives is far from economic unless gas is north of $6.50 per unit. The Wall Street Journal says that wind power is facing a make-or-break moment in Congress, while we debate to extend these subsidies. So that is why the wind power companies are on pins and needles waiting to see what Congress decides to do about its subsidy.

Taxpayers should be the ones on pins and needles. This $27 billion over 10 years is a waste of money. It could be used for energy research. It could be used to reduce the debt. Let's start with the $12 billion over that 10 years that went for the production tax credit. That tax credit was supposed to be temporary in 1992.

Today, according to Secretary Chu, wind is a mature technology. Why does it need a credit? The credit is worth about 3 cents per kilowatt hour, if we take into account the corporate tax rate of 35 percent. That has caused some energy officials to say they have never found an easier way to make money. Well, of course not.

So we do not need to extend the production tax credit for wind at a time when we are borrowing 40 cents out of every dollar, at a time when natural gas is cheap and nuclear power is clean and more reliable and less expensive.

I would like to see us put some of that money on energy research. We only spend $5 billion or $6 billion a year on energy research: clean energy research, carbon recapture, making solar cheaper, making electric batteries that go further. I am ready to reduce the subsidies for Big Oil as long as we reduce the subsidies for Big Wind at the same time.

So let's not even think about putting this tax break for the rich in the middle of an extension of a tax deduction for working Americans this week. Let's focus on reducing the debt, increasing

expenditure for research, and getting rid of the subsidies.

Twenty years is long enough for a wind production tax credit for what our distinguished Nobel Prize-winning Secretary of Energy says is a mature technology.

I ask unanimous consent to have printed in the RECORD a film review from the New York Times on February 3 entitled, ''Turbines in the Backyard: The Sound and the Strobes.'' This is about the movie ''Windfall,'' about upstate New York communities that have experienced having these huge things in their backyards. An article by Robert Bryce, ''Why The Wind Is Full Of Hot Air and Costing You Big Bucks,'' an article from the Los Angeles Times on wind farms, and another article from February 2 in the Globe, ''Town turns off wind, opts for solar energy.''

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

[From the New York Times, Feb. 2, 2012]

TURBINES IN THE BACKYARD: THE SOUND AND THE STROBES

(By Andy Webster)

We can all agree that energy independence is a worthy objective, right? Alternative energy sources like solar power can help free the United States from fossil fuels and the grip of unstable Persian Gulf states. And wind power—wait, not so fast, says ''Windfall,'' Laura Israel's urgent, informative and artfully assembled documentary. An account of rural Meredith, in upstate New York, when wind turbines came to town, the film depicts the perils of a booming industry and the bitter rancor it sowed among a citizenry.

In 2004 residents of this once-flourishing dairy center were approached by companies offering to pay a nominal fee to erect turbines on their property while insisting on confidentiality agreements (to keep competitors ignorant of costs). Economically beset, some people, like Ron and Sue Bailey, jumped at first. But others, like Keitha Capouya, now the town supervisor, dug into the research and sounded an alarm.

Turbines are huge: some are 40 stories tall, with 130-foot blades weighing seven tons and spinning at 150 miles an hour. They can fall over or send parts flying; struck by lightning, say, they can catch fire. Their 24/7 rotation emits nerve-racking low frequencies (like a pulsing disco) amplified by rain and moisture, and can generate a disorienting strobe effect in sunlight. Giant flickering shadows can tarnish a sunset's glow on a landscape.

People in Lowville, N.Y., farther north, express despair on camera at having caved to the wind companies' entreaties; Bovina, N.Y., banned turbines entirely. Meredith is riven by the issue, which pits the Planning Board against the Town Board and neighbor against neighbor. Former city dwellers escaping urban anxieties are surprised to see themselves as activists. Concerns like setback (the distance of turbines from a property line) are debated.

Government officials are seen only in glimpses of television talk shows. Conspicuously absent are representatives of corporations like Airtricity, Enxco or Horizon Wind Energy (though the financier and wind advocate T. Boone Pickens comes off as a wolf in good-old-boy clothing). And despite Ms. Israel's inspired use of a local demolition derby as a metaphor for Meredith's struggles, her accelerated pacing almost overheats.

But the film's implications are clear: The quest for energy independence comes with caveats. Developers' motives must be weighed, as should the risks Americans are willing to take in their own backyard. Despite BP's three-month blanketing of Gulf of Mexico beaches in crude oil; the nuclear disaster in Fukushima, Japan; and the possible impact of hydraulic fracturing (fracking) on the water table, energy companies remain eager to plunder nature's bounty in pursuit of profit.

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[From FoxNews.com, Dec. 20, 2011]

WHY THE WIND INDUSTRY IS FULL HOT AIR AND COSTING YOU BIG BUCKS

(By Robert Bryce)

The American Wind Energy Association has begun a major lobbying effort in Congress to extend some soon-to-expire renewable-energy tax credits. And to bolster that effort, the lobby group's CEO, Denise Bode, is calling the wind industry ''a tremendous American success story.''

But the wind lobby's success has largely been the result of its ability to garner subsidies. And those subsidies are coming with a big price tag for American taxpayers. Since 2009, AWEA's largest and most influential member companies have garnered billions of dollars in direct cash payments and loan guarantees from the US government. And while the lobby group claims to be promoting ''clean'' energy, AWEA's biggest member companies are also among the world's biggest users and/or producers of fossil fuels.

A review of the $9.8 billion in cash grants provided under section 1603 of the American Recovery and Reinvestment Act of 2009 (also known as the federal stimulus bill) for renewable energy projects shows that the wind energy sector has corralled over $7.6 billion of that money. And the biggest winners in the 1603 sweepstakes: the companies represented on AWEA's board of directors.

An analysis of the 4,256 projects that have won grants from the Treasury Department under section 1603 over the past two years shows that $3.37 billion in grants went to just nine companies—all of them are members of AWEA's board. To put that $3.37 billion in perspective, consider that in 2010, according to the Energy Information Administration, the total of all ''energy specific subsidies and support'' provided to the oil and gas sector totaled $2.84 billion. And that $2.84 billion in oil and gas subsidies is being divided among thousands of entities. The Independent Petroleum Association of America estimates the US now has over 14,000 oil and gas companies.

The renewable energy lobby likes to portray itself as an upstart industry, one that is grappling with big business and the entrenched interests of the hydrocarbon sector. But billions of dollars in 1603 grants—all of it exempt from federal corporate income taxes—is being used to fatten the profits of some of the world's biggest companies. Indeed, the combined market capitalization of the 11 biggest corporations on AWEA's board—a group that includes General Electric and Siemens—is about $450 billion.

Nevertheless, the clock is ticking on renewable-energy subsidies. The 1603 grants end on December 31 and the renewable-energy production tax credit expires on January 1, 2013. On Monday, AWEA issued a report which predicted that some 37,000 wind-related jobs in the US could be lost by 2013 if the production tax credit is not extended.

But the subsidies are running out at the very same time that a cash-strapped Congress is turning a hard eye on the renewable sector. The collapse of federally backed companies like solar-panel-maker Solyndra and biofuel producer Range Fuels, are providing critics of renewable subsidies with plenty of ammunition. And if critics need more bullets, they need only look at AWEA's board to see how big business is grabbing every available dollar from US taxpayers all in the name of ''clean'' energy. Indeed, AWEA represents a host of fossil-fuel companies who are eagerly taking advantage of the renewable-energy subsidies.

Consider NRG Energy, which has a seat on AWEA's board. Last month, the New York Times reported that New Jersey-based NRG and its partners have secured $5.2 billion in federal loan guarantees to build solar-energy projects. NRG's market capitalization: $4.3 billion.

But NRG is not a renewable energy company. The company currently has about 26,000 megawatts (MW) of generation capacity. Of that, 450 MW is wind capacity, another 65 MW is solar, and 1,175 MW comes from nuclear. So why is NRG expanding into renewables? The answer is simple: profits. Last month, David Crane, the CEO of NRG, told the Times that ''I have never seen anything that I have had to do in my 20 years in the power industry that involved less risk than these projects.''

Or look at E.On, the giant German electricity and natural gas company, which also has a seat on AWEA's board of directors. In 2010, the company emitted 116 million metric tons of carbon dioxide an amount approximately equal to that of the Czech Republic, a country of 10.5 million people. And last year, the company—which has about 2,000 MW of wind-generation capacity in the US—produced about 14 times as much electricity by burning hydrocarbons as it did from wind.

Despite its role as a major fossil-fuel utility, E.On has been awarded $542.5 million in section 1603 cash so that it can build wind projects. And the company is getting that money even though it is the world's largest investor-owned utility with a market capitalization of $45 billion.

Another foreign company with a seat on AWEA's board: Spanish utility Iberdrola, the second-largest domestic wind operator. But in 2010, Iberdrola produced about 3 times as much electricity from hydrocarbons as it did from wind. Nevertheless, the company has collected $1 billion in section 1603 money. To put that $1 billion in context, consider that in 2010, Iberdrola's net profit was about 2.8 billion Euros, or around $3.9 billion. Thus, US taxpayers have recently provided cash grants to Iberdrola that amount to about one-fourth of the company's 2010 profits. And again, none of that grant money is subject to US corporate income taxes. Iberdrola currently sports a market cap of $39 billion.

Another big winner on AWEA's board of directors: NextEra Energy (formerly Florida Power & Light) which has garnered some $610.6 million in 1603 grants for various wind projects. NextEra's market capitalization is $23 billion. The subsidies being garnered by NextEra are helping the company drastically cut its taxes. A look at the company's 2010 annual report shows that it cut its federal tax bill by more than $200 million last year thanks to various federal tax credits. And the company's latest annual report shows that it has another $1.8 billion of ''tax credit carryforwards'' that will help it slash its taxes over the coming years.

The biggest fossil-fuel-focused company on AWEA's board is General Electric, which had revenues last year of $150 billion. Of that sum, about 25 percent came from what the company calls ''energy infrastructure.'' While some of that revenue comes from GE's wind business, the majority comes from building generators, jet engines, and other machinery that burn hydrocarbons. The company is also rapidly growing GE Oil &

Gas, which had 2010 revenues of $7.2 billion. GE Oil & Gas has more than 20,000 employees and provides a myriad of products and services to the oil and gas industry.

GE has a starring role in one of the most egregious examples of renewable-energy corporate welfare: the Shepherds Flat wind project in Oregon. The majority of the funding for the $1.9 billion, 845-megawatt project is coming from federal taxpayers. Not only is the Energy Department providing GE and its partners—who include Caithness Energy, Google, and Sumitomo—a $1.06 billion loan guarantee, as soon as GE's 338 turbines start turning at Shepherds Flat, the Treasury Department will send the project developers a cash grant of $490 million.

On December 9, the American Council on Renewable Energy issued a press release urging Congress to quickly extend the 1603 program and the renewable-energy production tax credit, because they will ''bolster renewable energy's success and American competitiveness.''

But time is running short. Backers of the renewable-energy credits say that to assure continuity on various projects, a bill must be passed into law by March 2012. If that doesn't happen, they are predicting domestic investment in renewable energy could fall by 50 percent. A bill now pending in the House would extend the production tax credit for four additional years, through 2017. The bill has 40 sponsors, 9 are Republicans. The bill is awaiting a hearing by the House Ways and Means Committee.

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[From Los Angeles Times, July 24, 2011]

WIND FARMS MULTIPLY, FUELING CLASHES WITH NEARBY RESIDENTS

(By Tiffany Hsu)

TEHACHAPI, CA.—Donna and Bob Moran moved to the wind-whipped foothills here four years ago looking for solitude and serenity amid the pinyon pines and towering Joshua trees.

But lately their view of the valley is being marred by a growing swarm of whirring wind turbines—many taller than the Statue of Liberty—sweeping ever closer to their home.

''Once, you could see stars like you wouldn't believe,'' Donna Moran said. ''Now, with the lights from the turbines, you can't even see the night sky.''

It's about to get worse.

Turbines are multiplying at blistering speeds as wind developers, drawn by the area's powerful gusts, attempt to meet an insatiable demand for clean energy.

Helo Energy plans to scatter 450-foot machines across hundreds of acres in nearby Sand Canyon. A few miles away, near the Old West Ranch enclave, Terra-Gen Power is building the nation's largest wind farm with hundreds of turbines, if not more. The project, Alta Wind Energy Center, is backed by hundreds of millions of dollars from Google Inc. and Citibank.

Federal and local officials hail the Tehachapi Valley, a harsh desert expanse about 100 miles north of Los Angeles, as an alternative energy mecca that will help wean Americans off fossil fuel. Kern County, home to the nation's largest concentration of wind farms, is looking forward to millions of dollars in much-needed tax revenue and has approved most proposed installations.

But wind projects aren't only proliferating in the region's outskirts. Nearly 3,000 turbines, many of them bigger than Ferris wheels, were installed across the country last year.

The growth is being propelled by federal incentives and state clean-energy mandates. In April, Gov. Jerry Brown signed a law that requires California utilities to get 33% of the state's electricity from renewable sources by 2020. As of the first quarter of 2011, they're at 17.9%.

But with thousands more wind projects on the drawing board, they're increasingly generating opposition among local residents. Less than 100 miles from Tehachapi in the Antelope Valley, proposed turbine developments are facing similar resistance. Across the country, Cape Cod, Mass., residents and political heavyweights such as Sen. John Kerry waged war against what could be the country's first offshore wind farm.

And the issue isn't just with wind turbines, said Tom Soto, an environmental activist and managing partner of Craton Equity Partners.

''These large projects enter at their own peril without involving the community,'' Soto said. ''Just because they're renewables instead of landfills doesn't mean they're off the hook.''

Residents of Blythe, Calif., near the border with Arizona, showed up at the recent groundbreaking of Solar Millennium's massive solar plant there to protest its proximity to sacred Native American sites. Gleaming mirrors will blanket nearly 6,000 acres, helping to generate electricity for Southern California Edison.

In San Diego County, critics have spent the better part of a decade trying to block the Sunrise Powerlink transmission network, which would bring electricity from far-flung solar and wind farms.

Activists there and elsewhere say that the fight is more than a classic case of ''not in my backyard'' resistance. Large, remote projects aren't the only solution to the nation's energy woes, they say.

City-dwellers could produce just as much clean electricity without the transmission hassles, they said, using rooftop solar panels, small wind turbines, fuel cells and other adaptable forms of renewable energy generation.

''We're going to need to find space to place these projects,'' Soto said. ''A successful portfolio will be balanced, with some utility-scale projects and some urban projects.''

Tehachapi activist Terry Warsaw said he's worried his community will soon be surrounded by turbines.

''Alternative energy has lulled us into a sense of complacency,'' he said. ''The potential is here to take over every ridge and every mountainside if the community isn't careful.''

Veterinarian Beverly Billingsley has been hosting anti-turbine community meetings in her new Sand Canyon barn, just up the slope from where the cluster of 450-foot machines is slated for construction.

''They are not benign things,'' she said. ''We've seen turbines go berserk.''

The machines get no more sympathy from Mother Mary Augustine, who lives cloistered at the Norbertine Sisters Monastery in a cradle of hills recently eyed for wind development.

''Monstrous insects,'' she calls them. ''I look at the propellers for a moment and my head gets dizzy.''

It's not that they dislike alternative energy, residents say. Many employ solar panels and smaller turbines to power their homes.

Lately, though, locals say that farm animals have begun cowering as construction vehicles rumble across lawns and surveyor helicopters roar overhead. There are worries about turbine oil leaking into water wells and turbines obstructing landing maneuvers at the local airport.

''Avian cuisinarts,'' said Sand Canyon resident April Biglay. She worries that more turbines could slaughter birds or cause ground vibrations that could decimate native species.

''We are resembling hundreds of towns around the country,'' she said.

Last year, an older machine began spinning uncontrollably, forcing authorities to shut down a main freeway for hours. The resulting traffic was an anomaly in a community where most jams are caused by high school football games and meandering sheep.

Fire is also a concern, with turbines' finicky electrical wiring, long fire department response times and limited roads on which to flee.

And the turbines could topple in an earthquake, since they're situated in sedentary soil directly on the Garlock fault line, residents say.

Some suggest that removing trees to make way for the machines could lead to erosion and flooding.

They also argue that the projects aren't helping the local economy. Local residents say pickup trucks driven by construction workers often have out-of-state license plates. Each new project causes nearby property values to plunge as much as 40%, city officials say.

And because companies aren't required to dismantle the turbines when they stop functioning, many will join the hordes of ''mechanical dinosaurs'' that already crowd the area, critics say.

Other residents say they're tired of making sacrifices for electricity that will go to other counties.

''It's a question of what you're willing to give up to be green,'' said local lawyer Kassandra McQuillen of some recent project plans. ''It's like proposing clear-cutting Griffith Observatory or the cliffs of Malibu.''

Residents say they've won some victories. Developer Terra-Gen yanked its 7,000-acre Pahnamid project last month after opponents slammed plans to set up nearly 150 turbines on the Tehachapi crests.

''It is not unusual for projects to fall by the wayside early in the development process,'' Terra-Gen said in a statement. ''The decision to pull back in an early stage on the Pahnamid project was a result of several important development concerns, including local opposition.''

By the end of the year, the developer said it will have invested $2.2 billion in Kern County, become the county's third largest taxpayer with $30 million a year and made more progress building its 1,100-megawatt Alta project.

But with so many projects on the plate for the region, Tehachapi city officials are urging Kern County to impose a temporary moratorium on wind projects near homes. And the city that has long been associated with the fields of propellers is now trying to draw tourists by talking up its chili cook-offs, historic downtown and pristine mountains.

''We've coexisted with the turbines for a long time,'' City Council member Susan Wiggins said. ''But we don't want to look like one big wind park.''

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[From Boston Globe, Feb. 2, 2012]

TOWN TURNS OFF WIND, OPTS FOR SOLAR ENERGY

(By Robert Knox)

At a time of accelerating production of both wind and solar energy, Duxbury officials have decided to buy solar energy produced elsewhere and take their own wind project off the table.

''It's an opportunity to save money,'' Jim Goldenberg, chairman of the town's Alternative Energy Committee, said after town selectmen signed a 20-year agreement with a solar energy company that plans to build its facility in Acushnet.

The deal is expected to save the town up to $30,000 a year in energy costs and supply

about 25 percent of the energy the town needs to run facilities such as schools, Town Hall, and other buildings, officials say. The producer, Pegasus Renewable Energy Partners LLC of Marstons Mills, has yet to begin construction of the solar farm. It's expected to take about a year to begin producing power.

Duxbury is also moving ahead on a plan to lease its capped landfill to a private developer, American Capital Energy, a national company whose customers include the Army, to build a solar energy farm there. Town Meeting backed the project last fall.

The town's move to buy solar energy was made in conjunction with the Alternative Energy Committee's decision to put a hold on the possibility of building a wind turbine. The decision comes at a time when neighboring Kingston is touting the construction of five turbines within its borders. Kingston officials said their town's wind and solar projects together would earn up to a $1 million a year in new revenue.

Until recently Duxbury was planning to build a wind turbine, too. Goldenberg's committee had planned to seek funding from Town Meeting to continue its feasibility study of a wind turbine on town property next to its North Hill golf course.

But that plan came under attack by a group of residents who said they feared that living near a turbine would undermine their health, lower their property values, and alter the neighborhood's residential character. They hired an attorney, produced a report attacking the financial basis of the project, and won a vote from selectmen urging the committee not to seek funds for the project.

Local wind power advocates cried foul. They said opponents were relying on a corporate-quality website and dubious information supplied by an anti-wind lobby with little connection to the town.

But Goldenberg said his group chose the solar option solely based on a comparison of the economics of the wind turbine project relative to the solar deals committee members have been working on. The bottom line, he said, is that a wind turbine on North Hill would produce electricity at $.155 per kilowatt hour versus $.10 per kilowatt hour to buy solar, a 35 percent cost differential.

Madam President, 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. NELSON of Florida. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

JORDAN NOMINATION

Mr. NELSON of Florida. Madam President, we are going to vote on Judge Jordan, a Cuban-American Federal district judge, who has been named by the President to go to the Eleventh Circuit Court of Appeals.

Judge Jordan came out of the Judiciary Committee unanimously. As Senator RUBIO and I spoke on Monday, the two of us, in a bipartisan way, do all of the selection of our Federal district judges—and it is all done in a bipartisan way.

In this case, with Judge Jordan being elevated to the Eleventh Circuit Court of Appeals—again, done in a bipartisan way and, indeed, the motion for cloture on the nomination; that is, to stop all debate on the nomination, was passed at a 5:30 vote Monday afternoon by a vote of 89 to 5. So at noon today, we are going to vote on the actual confirmation, which is the second step in the process: after the President nominates, the Senate confirms. Judge Jordan, by our vote today—which I expect will be rather overwhelmingly bipartisan—will ascend to the Eleventh Circuit Court of Appeals as the first Hispanic judge on that Court of Appeals.

I think it is instructive that we could have done all of this Monday at about 6:00 after the vote had occurred 89 to 5 to cut off debate. Yet the Senate rules allow even one Senator, if they object—which one Senator did object—to the waiving of the cloture cutting off debate. The Senate rules say there can be up to 30 hours of debate before the matter at hand is voted on.

Of course, with a vote of 89 to 5, it is pretty well determined, especially since Senator RUBIO and I were the ones who were bringing this judge to the attention of the Senate. Yet here we are.

It is now Wednesday at noon that it is going to take us to get to this judge. This is illustrative of how the Senate is not working. For whatever reason, the Senator who objected—which, by the way, it is my understanding that the Senator had no objection to the judge; it is some other extraneous matter and, therefore, wanted to slow up and throw rocks into the gears of the Senate so that what could have been dispensed with on Monday evening at 6:00 is now taking all the way until noontime on Wednesday, after the 30 hours have run.

For the Senate to function it has to have a measure of trust among Senators. It has to be bipartisan. The two leaders have to get along. In the process, a lot of the work is done by unanimous consent, with the consent of the two leaders, the Democratic leader and the Republican leader. But when things get too hyperpartisan or too ideologically rigid, then that is when the whole process, the mechanism goes out of kilter. It is just another illustration in this time of an election cycle for President where things are highly sensitive from a political, partisan, and ideological standpoint that a judge who is warmly embraced by both sides for his confirmation is getting held up.

I will close by recalling the reason that Judge Jordan got a vote of 89 to 5: He has had a stellar record as a Federal district judge. He has, over the course of his career, clerked, when he came out of law school, for a judge on the Eleventh Circuit. Then he clerked for Justice Sandra Day O'Connor. He went back and was an assistant U.S. attorney, and then went to the bench and has been there for over a decade.

This is the kind of person we want to have in the judicial branch of our government.

I commend him on behalf of Senator RUBIO. The two of us have been in a meeting all morning in duties of another committee, the Intelligence Committee. I commend to the Senate, on behalf of Senator RUBIO and me, Judge Jordan to be confirmed for the Eleventh Circuit Court of Appeals.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

SURFACE TRANSPORTATION ACT

Mr. JOHANNS. Madam President, I rise today to take a few minutes to comment on the bill that the Senate will soon be considering to state why I oppose the bill in its current form. I am speaking of the bill that we oftentimes refer to as the Transportation bill.

I do think this bill does some good things. I supported it coming out of the EPW Committee. It had very sound bipartisan support in that committee.

But there is a serious concern with the bill, a concern for all of us. Specifically, there is a provision in the bill that is what I would call an earmark. However, it is often referred to by our rule as a congressionally directed spending item. Let me again say, purely and simply, it is an earmark. That is why, even though I supported the bill in committee, I did feel very strongly about that provision and I felt compelled to vote against proceeding to the bill and that is why I am here today, filing an amendment.

This provision changes the purpose of an earmark that was included in the previous highway bill. Then the language goes on to do a second thing: It newly directs the money back to the same State where the earmarked project would have occurred, that being the State of Nevada. Let me repeat that. It takes an unspent earmark from a previous highway bill in Nevada and it replaces it with yet another earmark to the State of Nevada. I will go into further detail.

First, the bill identifies any unobligated balances associated with this earmark. The bill reads:

> . . . any unobligated balances of amounts required to be allocated to a State by section such and such of the SAFETEA–LU. . . .

In other words, it goes to the unobligated balances, which was an earmark. If you go back to the previous highway bill, this section 1307(d)(1) is an earmark in that previous bill. But it does not stop there. It does not stop by rescinding that earmark. It goes on to say in the text of the bill we are considering that this money ''shall instead be made available to such State . . .''—the State of Nevada.

So we have rescinded the earmark, but then we said the money goes back to the same State. In other words, the earmarked money is now directed by law, if this were to pass, back to the State where the project was to be built.

Two wrongs do not make a right. If several million dollars is sitting idly