

displaying his picture since he is also revered by the regime as the nation's founder.

The regime rightly fears the power of these symbols but their attempts to separate Aung San Suu Kyi from her legacy and deprive her of citizenship will fail. The Burmese people see through it. The people clearly do not want her deported.

I urge the regime to treat this courageous woman with the respect she deserves and to ensure that no harm comes to her. She has stood up to the repressive tactics of the military regime for over 10 years now. In recent months, she has sacrificed her personal comfort and risked her health facing down the authorities. When denied the ability to travel freely she spent 10 days waiting in her car for the authorities to allow her to move. Her exceptional fortitude and her commitment to challenging the regime through non-violent actions are an inspiration to those working for human rights around the world.

I also express my concern about recent detentions of several hundred of Aung San Suu Kyi's supporters. Last week, the regime reacted with typically heavy-handed tactics to prevent her party from convening the members of parliament elected in free and fair elections held in 1990. The regime has never allowed the parliament elected in 1990 to take office because the voters overwhelmingly elected opposition members. Aung San Suu Kyi recently called on the regime to convene the parliament. When that request was ignored her party decided to convene a "People's Parliament" on its own. The reaction of the military junta was predictable. They simply rounded up any opposition politician who might attend the planned events and "detained" them. Hundreds of party members are still being held.

This outrageous tactic violates the rights of the Burmese people to exercise freedom of assembly and political expression. Although this behavior is nothing new or unexpected for this repressive regime we must persist in condemning it. I call on the regime to immediately release all opposition party members detained and to enter into genuine dialogue with the opposition and ethnic minority group about restoring democracy to Burma.

And, again, I call on the military regime to treat Aung San Suu Kyi with respect as the legitimate leader of the opposition and to withdraw the threat of deportation and respect her rights as a Burmese citizen.

To reiterate, Mr. President, I want to go on record. I express my outrage, and I think it is outrage of Democrats and Republicans, at the threats toward the Burmese opposition leader, Aung San Suu Kyi, made last Tuesday by a Government-controlled press. They are now talking about the possibility of deporting her from Burma.

She is a very, very courageous woman. The people overwhelmingly

elected her in 1990. What has happened since is that this military regime, which used to call itself SLORC, which has now tried to improve its image by calling itself the State Peace and Development Council, has been just full of brutal repression for the people there.

I rise to express my concern about what is happening to this very courageous woman who has been trying to travel, has been trying to have an opportunity to speak out in her country and meet with other people. She spent recently 10 days just in her car trying to cross a bridge to meet with people, to speak with people in her own country. This regime really has her under house arrest.

In addition, this past week, what happened is that many of the people in her party decided that they would convene a people's parliament, since their elections were nullified when this repressive military government took over. They held a meeting, and hundreds of them have been rounded up and are now in prison.

I come to the floor of the Senate today to simply say that this is an outrageous practice of repression by this Government. I condemn it on the floor of the U.S. Senate. It is not always that I think I speak for almost every single Senator, but I believe Democrats and Republicans agree on this. I call on this military regime to treat this courageous woman with respect as a legitimate leader of the opposition and to release people whom they have unlawfully put in jail.

Aung San Suu Kyi is a courageous woman. She stands for the very best of what our country stands for, which is respect for human rights and democracy. We need to speak out on the floor of the Senate, and we need to send a message to this repressive Government in Burma, that not only will we not do business with you as usual—and we are not doing that—but we, as a Government, we as the U.S. Senate, will continue to speak out and condemn your actions, and we will continue to support people in Burma, those people who stand up for democracy and stand up for human rights.

I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. MURKOWSKI addressed the Chair.

AMENDMENT NO. 3594

The PRESIDING OFFICER. Who yields time to the Senator from Alaska?

Mr. DOMENICI. Mr. President, I would like to ask Senator BOXER—we have been going back and forth. Senator MURKOWSKI just wants to speak for 3 minutes, and I wonder if we could then have Senator THOMAS speak for up to 10 minutes.

Mrs. BOXER. Absolutely.

Mr. DOMENICI. Then we would go to your side.

Mrs. BOXER. Fine.

Mr. DOMENICI. I yield to the two Senators in that order.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I rise as chairman of the Committee on Energy and Natural Resources. I would like to advise my colleagues that we had an oversight hearing in June on the MMS oil valuation issue. The results of that hearing indicated that we should initiate a dialogue with the principals. That dialogue was entered into. I felt gratified that we were making progress relative to this complex issue and was chagrined to find at a later date that the advances we thought we were making simply had been overturned by the policymakers of the Department of the Interior and the administration.

As a consequence, this conversation about corporate welfare, big oil, and big business is incorrect because we are talking about small companies in many cases. The oil and gas industry has lost a quarter of a million jobs. This is an industry that now finds itself moving overseas where there is a favorable climate for exploration and production.

As evidence of that, Mr. President, in 1973 and 1974, we were 37-percent dependent on imported oil; today, we are 52-percent dependent. The Department of Energy suggests we are going to be 66-percent dependent in the year 2004 or 2005.

The amendment offered by Senator DOMENICI and Senator HUTCHISON during committee markup would delay the implementation of the final rules on Federal oil valuation until October 1999, or until a negotiated rule can be achieved.

The oil and gas industry is struggling in a declining market. This is an industry where we have lost a quarter of a million jobs. We are talking about implementation of regulations that would drive this industry out of the United States and make us more dependent on imported oil. It is unconscionable. The taxes paid by this industry and mortgage payments made by industry employees in their communities are contributions being overlooked in this general climate of "well, throw it out—because somehow big business is cheating," if you will. And that is simply unconscionable, Mr. President.

As Senator DOMENICI and Senator HUTCHISON indicated, they personally met twice with Interior Department officials and industry executives to resolve what amounts to a handful of issues concerning the rulemaking. It is rather interesting, because if you look at the MMS proposal, it attempts to set the oil royalty away from the lease; that is, downstream, almost near the burner, not as required by law, and set it on the value added by the companies

through their extraordinary efforts to market the product. And by denying the companies an allowance for reasonable marketing costs, MMS unnecessarily and artificially raises the price of oil on which the royalty is based. That is what they are doing here.

So, Mr. President, do not be misled by these generalities that somehow this is corporate welfare. This is an effort to help an industry be competitive. The policy of the Department of the Interior to mandate royalty valuation, through rulemaking, would be detrimental and not resolve the issue, and would leave many unanswered questions relative to the industry's ability to be internationally competitive. It is beyond me, Mr. President.

I thought when the Interior officials met, they were going to meet in good faith. It appears that Interior did little more than pay lipservice to that effort. The rule is just as unfair now as it was when discussions of it took place. Only now, Interior is trying to put its spin on the issue by saying, "We gave the industry its meeting. We addressed their concerns. Why do we need to have any further delay?"

Mr. President, it appears the Interior Department is going to continue to base its oil royalty on market factors away from the lease. Any attempts to strip the Domenici amendment away should be opposed. And there are three specific reasons. Then I will conclude.

First, contrary to what Interior claims, the amendment was scored by CBO as having zero effect on the current baseline. Interior's claim that it will save \$65 million a year is simply puffery and nothing more.

Second, with world oil prices depressed, we do not need to add what amounts to a new tax on this industry, particularly the independents, the small oil companies. Do not talk to me about big business.

Third, delaying oil valuation rules is nothing new. Congress did it in 1987. Delay will allow better public policy to be formulated.

So I urge my colleagues to join in opposing the removal of the oil valuation amendment from the Interior appropriations bill.

I yield the floor to Senator THOMAS.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Thank you, Mr. President.

I rise in strong opposition to the Boxer amendment. Contrary to what we have heard over there about withdrawal and cheating and all these things, there are some real issues here, issues that many of us, particularly those of us who live in public land States, have been working on for a very long time.

That is the question—how do you have regulations that extract one-eighth of the value of Federal oil into the Federal Treasury? Nobody objects to that. That is the law. Nobody argues with that. There are some real issues here.

For instance, what is the value in Chugwater, WY, as compared to Oklahoma City? What is the value when you are close to a collection point as opposed to having to carry the oil for a very long time? Where do you apply the value? Do you have to pay for the transportation to where it is going in order to have one-eighth of it? There are some real issues here, and we have not been able to come together with the bureaucracy to have a satisfactory solution. And that is why this amendment is there—to have a moratorium on time so that this can, indeed, be resolved.

I have been involved in some of these meetings here in which we have tried to find a solution. I, by the way, have not seen any of my friends from the other side of the aisle there participating in trying to find a solution. All they do is come up and complain. I am, frankly, a little offended at the idea that seems to be promoted that somehow if you are not for this it is because you may have gotten a contribution from an oil company. I am offended by that.

People believe in what they are doing here. They believe it is important to their communities and to their States. They believe there ought to be jobs. They believe we ought to have a domestic oil industry. These are beliefs. I do not hear anyone saying they are where they are because the environmentalists are having TV ads to support their candidacy. I suppose you could say that. I do not think that is a great idea.

What we have is some real confusion. Let me give you a little example. We had an independent who was brought back before the agency because they did what someone in the agency told them to do. They did what the employee told them to do. And the director of MMS says, "Well, you can't go by that because that might not be what the Assistant Secretary meant to happen." Give me a break. You mean a citizen who goes to an employee of an agency cannot rely on the information they get there because it might not be consistent with what someone said who is Assistant Secretary? That is the kind of thing we are dealing with here and the kind of thing we need to get resolved.

We have met with MMS on a number of occasions. I must tell you, I have been working with this since I was in the House 4 years ago, where I suggested, and would suggest again, that the States do the actual collection of the mineral royalty and share it with the Feds. We are duplicating it now.

MMS is one of the most inefficient agencies we have in this Government in terms of their cost. It is not clear what it is that they are doing. It is clear that it is not a workable situation. When you take the NYMEX and apply it to a place in Oklahoma City, and out in Wyoming, that is not a workable way to determine what the market value is. We need to do something about that.

Mr. President, I do not think we ought to be fooled by arguments of the proponents that they are not getting a fair share of the royalties. This amendment is not about reasonable valuation, collection. This amendment is not about schoolchildren. This amendment is quite simply one that wants to attack the oil industry by those who are critical of business, those who think that this is some kind of an environmental question. And it is not.

It is important that the MMS rule be understood, that it does not only impact large petroleum producers. If that were the case, why would the independents be involved? Why would the independents be interested in bringing some kind of court action? It is because they are very much impacted.

We have also heard over the last several days that the Governors are not for this. I just bring to the attention of my colleagues a letter by the Governor of Wyoming.

. . . I strongly object to Senator Barbara Boxer's amendment to the Department of Interior's Appropriations Bill. . . . The amendment would allow the Department to implement new and untested federal royalty crude oil pricing regulations.

And it goes on, in opposition to that.

Minerals Management has proposed rules that are complicated, that are unworkable, that result in hardship to the producer, result in a loss of jobs, a loss to the economy of our State of Wyoming, and I think a security issue to this country when we have 55, nearly 60 percent of our oil imported. We have an opportunity here.

Simply put, this valuation rule is a job killer. We ought not to go forward without having some time to make it work.

I think the current language in the appropriations bill is fair and reasonable. Instead of taking reckless actions and getting up in broad generalities and talking about the evils of business, we ought to craft some rules that work. We can, in fact, do this.

Again, I urge my friends in the Senate to vote against the Boxer amendment and continue to resolve the question in a way that is workable and a way that really deals with some regulations that will cause us to be able to collect these royalties, as we are all willing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, as we agreed before, I will speak 5 minutes now and then I will yield 20 minutes to Senator DORGAN.

There were many misstatements made here, but I will start from the top. The Senator from Wyoming said that he didn't see me or any Members on this side at some closed-door meetings that were held between oil companies, the Department of Interior, and Members of the Senate.

A, I was never invited to even one of those meetings. B, had I been invited, I wouldn't have gone, because I don't

think it is right for Senators to meet with regulators and companies that are being regulated by those regulators. A, I wasn't invited; and B, I wouldn't have gone, and I would have expressed my opinion as to why I declined the invitation.

There were comments made by the Senator saying those of us who oppose the rider in this bill are antibusiness. I want to make something clear: 95 percent of the oil companies are doing right by the American people. They are paying their fair share of royalties. I applaud that. As a matter of fact, Atlantic Richfield has stepped away from the big oil companies and said, "You know what? We will be a good corporate citizen. We are going to pay the right royalty based on the market price."

So, please, let no one say that this Senator is antibusiness when I support 95 percent of the oil companies in this particular matter.

I also want to point out that we have a letter addressed to Senator BINGAMAN, which I ask unanimous consent to have printed in the RECORD, from a number of commissioners of public land, including New Mexico, Texas, Arkansas, South Dakota, Montana, North Dakota, Colorado, and Robert Hight from California, who support the Boxer amendment, as well as a letter to Senator GORTON.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE WESTERN STATES
LAND COMMISSIONS ASSOCIATION,
September 4, 1998.

Hon. JEFF BINGAMAN,
U.S. Senator, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BINGAMAN: We, the undersigned Lands Commissioners who are members of the Western States Lands Commissioners Association, urge your support for Senator Barbara Boxer's amendment to the Department of Interior's Appropriations Bill, S. 2237, to allow the Department of Interior to implement new federal royalty crude oil pricing regulations. The Department's proposed regulations would ensure that oil companies would pay no more and no less than fair market value for federal royalty oil. S. 2237 currently includes a provision which continues the ban on implementing the proposed regulations for the next fiscal year. This delay is costing taxpayers \$5 Million per month.

The state agencies that are members of the Western States Land Commissioner's Association have a strong interest in ensuring that oil companies pay the market value of federal royalty oil. The member states of the Association share in the revenues collected by the Department of Interior. The failure of the oil companies to pay market value for federal royalty crude reduces the revenues obtained by the federal government and the states.

The Department's Mineral Management Service (MMS) has been eminently fair in proposing its new regulations. MMS has held numerous public and private meetings for over two and a half years to allow the industry to comment and the industry has filed over two thousand pages of comments. Based on industry concerns, MMS has revised its proposed regulations a number of times to take into account industry's suggestions and

criticisms. For example, MMS has revised its proposed regulations to recognize regional differences, particularly for the Rocky Mountain Area.

The proposed MMS regulations are very reasonable. If oil companies sell royalty crude on arm's-length transactions, they pay on the basis of the prices they receive. If they do not sell the oil on arm's-length transactions, they pay on the basis of prices at market centers, adjusted for location and quality differences, which are universally recognized to result from competition among innumerable buyers and sellers.

Oil companies presently use their posted prices to value royalty oil. Posted prices are unilaterally set by individual oil companies less than the market value of those crudes. In contrast, the market prices proposed by MMS to value royalty crude not sold by arm's-length transactions are set by innumerable buyers and sellers and are publicly reported on a daily basis.

MMS' proposed switch from posted prices to market prices is not a radically new concept:

(1) The State of Alaska uses the spot price of Alaska North Slope crude oil quoted for delivery in the Los Angeles Basin as the basis for royalties;

(2) Arco, since the early 1990's, uses spot prices as the basis of payments of royalties throughout the country;

(3) The recent State of Texas Chevron and State of Texas Mobil settlements rely on the use of spot prices for royalty valuation purposes.

Mobil recently settled for \$45 million a case brought by The United States Department of Justice that Mobil had underpaid federal royalties throughout the United States.

The Department's comprehensive proposal is the logical alternative to posted prices.

Industry's efforts to require the federal government to take and sell its royalty oil-in-kind should be rejected. MMS, numerous states and more recently the General Accounting Office (GAO) have voiced legitimate objections to industry's proposal. Mandatory sales of royalty-in-kind oil would not work for the thousands of federal leases which produce low volumes of crude and in remote locations. Moreover, the federal government's lack of easy access to pipelines, and the major oil companies' unwillingness to pay more than posted prices for their crude oil, would also mean that the mandatory in-kind sales would generate even less revenue than are presently generated.

Thank you for your consideration.

Sincerely,

Ray Powell, Commissioner of Public Lands, New Mexico State Land Office;
Curt Johnson, Commissioner, South Dakota Office of School and Public Lands; Jeff Hasener, Administrator, Montana Department of Natural Resources & Conservation; Robert C. Hight, Executive Officer, California State Lands Commission; Garry Mauro, Commissioner, Texas General Land Office; Charlie Daniels, Commissioner, Arkansas Commissioner of State Lands; Robert J. Olheiser, North Dakota Commissioner of University and School Lands; John Brejcha, Deputy Director, Colorado State Board of Land Commissioners.

DEPARTMENT OF NATURAL RESOURCES,
Olympic, WA, September 3, 1998.

Hon. SLADE GORTON,
U.S. Senator, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GORTON: I'm writing to urge your support for Senator Barbara Boxer's amendment to the Department of the Inte-

rior's Appropriations Bill, S. 2237, to allow the Department of the Interior to implement new federal royalty crude oil pricing regulations. The department's proposed regulations would ensure that oil companies would pay no more and no less than fair market value for federal royalty oil. S. 2237 currently includes a provision that continues the ban on implementing the proposed regulations for the next fiscal year. This delay is costing taxpayers \$5 million per month.

The members of the Western States Land Commissioners Association, of which the State of Washington is a member, have a strong interest in ensuring that oil companies pay the market value of federal royalty oil. The association's member states share in the revenues collected by the Department of the Interior. The failure of oil companies to pay market value for federal royalty crude reduces the revenues obtained by the federal government and the states.

The Department of the Interior's Mineral Management Service has been eminently fair in proposing its new regulations. The service has held numerous public and private meetings for over two and a half years to allow the industry to comment and the industry has filed over two thousand pages of comments. Based on industry concerns, the service revised its proposed regulations a number of times to take into account industry's suggestions and criticisms. For example, the service revised its proposed regulations to recognize regional differences, particularly for the Rocky Mountain area.

The proposed Mineral Management Service regulations are very reasonable. If oil companies sell royalty crude by means of arm's-length transactions, they pay on the basis of the prices they receive. If they do not sell the oil by arm's-length transactions, they pay on the basis of prices at market centers, adjusted for location and quality differences, which are universally recognized to result from competition among innumerable buyers and sellers.

Many companies presently use their posted prices to value royalty oil. Posted prices are unilaterally set by individual oil companies and are set at a level lower than the market value of those crudes. In contrast, the market prices proposed by the Mineral Management Service to value royalty crude not sold by arm's-length transactions are set by innumerable buyers and sellers and are publicly reported on a daily basis.

The service's proposed switch from posted prices to market prices is not a radically new concept:

(1) The State of Alaska uses the spot price of Alaska North Slope crude oil quoted for delivery in the Los Angeles Basin as the basis for royalties;

(2) ARCO, since the early 1990s, uses spot prices as the basis of payments of royalties throughout the country; and

(3) The recent State of Texas/Chevron settlement relies on the use of spot prices for royalty valuation purposes.

The Department of the Interior's comprehensive proposal is the logical alternative to posted prices.

Industry's efforts to require the federal government to take and sell its royalty oil-in-kind should be rejected. The Mineral Management Service, numerous states, and, more recently, the General Accounting Office, have voiced legitimate objections to industry's proposal. Mandatory sales of royalty-in-kind oil would not work for the thousands of federal leases that produce low volumes of crude and in remote locations. Moreover, the federal government's lack of easy access to pipelines, and the major oil companies' unwillingness to pay more than posted prices for their crude oil, would also mean that the mandatory in-kind sales would generate even less revenue than is presently

generated. In addition, it makes sense to evaluate the results of the current Mineral Management Service demonstration program before requiring an approach nationwide to locations that are likely to lose money.

The bottom line for states is: These are assets that belong to the beneficiaries of the states' trust lands and they should be fairly compensated when those assets are sold. Thank you for your consideration of my position on Senator Boxer's amendment.

Sincerely,

JENNIFER M. BELCHER,
Commissioner of Public Lands.

Mrs. BOXER. Mr. President, I also will read into the RECORD the groups that support the Boxer amendment: American Association of School Administrators, American Bioenergy Association, Americans for Clean Energy, American Wind Energy Association, Arkansas State Lands Commission, California State Lands Commission, California State Superintendent of Public Instruction, Colorado State Board of Land Commissioners, Council of Chief State School Officers, Friends of the Earth, Global Biorefineries, Inc., Montana Department of Natural Resources and Conservation, National Association of State Boards of Education, National Education Association, National Parent-Teachers Association—the PTA—National School Boards Association, The Navajo Nation, National Trust for Historic Preservation, New Mexico State Lands Commissioner, Project on Government Oversight, Public Citizen, Safe Energy Communication Council, South Dakota State Lands Commissioner, SUN DAY Campaign, Taxpayers for Common Sense, Texas State Lands Commissioner, U.S. Public Interest Research Group, The Wilderness Society, and the Washington State Lands Commissioner.

Later, after Senator DORGAN has finished and colleagues on the other side have had a chance to speak, I want to read what the States are saying as to how they view this rule and how they support the fact that there is a process going on to make sure that the largest of the oil companies—5 percent—pay their fair share of royalty payments so that the taxpayers get what is due them.

Those who are supporting the Boxer amendment are standing with the taxpayers. That is very, very clear. I am very honored to have been able to offer this amendment.

Again, I want to thank Senator GORTON for his indulgence in allowing us to have adequate time to debate this amendment.

I yield up to 20 minutes to Senator DORGAN.

Mr. DOMENICI. Senator BOXER, I thought when I proposed that we go next, that I had little statements, not 20-minute ones, and three of them could go because they were short.

Mrs. BOXER. If Senator DORGAN would yield—I thought it was only two.

Mr. DOMENICI. I wanted Senator BURNS to discuss his 5-minute statement.

Mrs. BOXER. I ask unanimous consent, when Senator BURNS completes

his statement, Senator DORGAN get 20 minutes.

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

The distinguished Senator from Montana is recognized.

Mr. BURNS. I thank my friend from New Mexico. I will not be long, I say to my friend and neighbor from North Dakota.

I want to put some things in perspective. Yes, the lands belong to the United States of America and are held in trust for the citizens of this country. But the citizens of this country and the taxpayers in this country do not participate in the expense of drilling the well. There is no argument on the eighth that is the royalty that goes to the surface owner. After all, the oil companies did buy the leases. They paid hard money for those leases. If there is a resource—in this case, oil—under the ground, they go and find it.

That is not to say that every well they put in the ground is successful. We have more dry wells than we have wells producing. The American people did not make any investment in drilling that so-called dry hole, and they didn't even participate in footing the bill; the expense of putting the well down is a producer's.

There is no argument with the eighth. I can simplify this very easily. "In kind" would be right. If you want to participate in the value added to compute your royalty, as the chairman of the Energy Committee said is being attempted by MMS, then MMS should participate in the transportation and the cost of the value added. That is only fair.

Now, if that is not fair, then I suggest that the Interior Department go out to the well site, take their truck, and every eight buckets of oil that come out of the ground, they get the eighth one, put it in their truck, and do with it whatever they want to do with it—go on open markets, like the independents or even the big companies do. It doesn't make any difference. That is their eighth. They have been paid. The market goes up, the market goes down; the risk is the same for the surface owner as it is for the one who is bringing it up. That is very simple. No argument with the eighth.

What we are saying is: Fair is fair. If you want to collect the royalty on the value-added product, then there has to be expense incurred by those who want to participate in that part of the process of getting oil to gasoline and the energy that we need in this country.

Senator DOMENICI brought up the point a while ago that people are paying more for their bottled water in the grocery store than they are for their gasoline. There is another aspect of this—and I think Senator DORGAN from North Dakota will agree with this—in this economy today, nobody who produces a raw product is making any money. Our farmers understand that. I will give my old "F-U" line here, old farmers union line they call it: Go and

price Wheaties at the grocery store at \$3.75 a pound and the farmer can't even get \$1.75 for a 60-pound bushel of wheat.

Something is out of whack here. So we are not arguing about the eighth. We are arguing where do you take the eighth and what our investment or our part of the expense should be. You can't let everybody else pay all the expenses and you just participate in the harvest of those dollars. It is a very, very simple thing. There is nothing difficult about understanding that. But I think that is what we ought to do. Yes, we are worried about children in schools. I sure am. I am worrying about the children of those folks who work awfully hard in the oil patch to feed their families, participate in their communities, and take care of the obligations they have as citizens of the United States of America.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, this is an interesting debate.

Mr. DOMENICI. Mr. President, if the Senator will yield briefly, I ask unanimous consent that the next speaker on our side be Senator NICKLES and he be allowed 10 minutes.

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

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, this is an interesting debate that likely will get very little attention, given the proclivity of the press to cover other things going on in our country these days.

I rise today to support the amendment offered by Senator BOXER. There is a charming quote from Abraham Lincoln that came during his debates with Douglas. At one point, very exasperated because he simply could not get Douglas to understand a point he was making, Lincoln turned to Douglas and said, "Tell me, how many legs does a cow have?" Douglas said, "Four, of course." Lincoln said, "Now, assume that the tail were a leg; how many legs would the cow have?" Douglas said, "Five." Lincoln said, "You see, that's where you are wrong. Just calling it a leg doesn't make it a leg at all."

As I heard members discuss this amendment on the floor of the Senate, saying this amendment affects independent oil companies, I thought it was easy to say, but it was totally removed from the facts. This bill has no impact on independent oil companies. It does not have an impact on independent oil companies. It has nothing to do with the fact that commodity prices are collapsing which is true on the farm and true for energy companies. It has nothing to do with that either. In fact, the lower the price for oil, the less royalty fee would be required to be paid by the oil industry. So that is not what this issue is about.

A lot of folks want to confuse the issue. It is not about that. It is not

about independent oil companies who are not affected, and not about the price of oil. When the price of oil goes down, royalty fees go down.

Let me describe what it is about. It is very simple. The companies who drill for oil on Federal lands pay a 12-percent royalty to the American people for the privilege of doing that on the oil that they bring up out of those lands and sell. They are required, because they are drilling on lands that are owned by the American people, to pay a royalty fee. That is fair. I suppose some think they ought to drill and keep all the money. But it is fair.

Over many years, we have decided that if they are going to get something the public has, they will pay a fee. That is the 12-percent royalty fee. A fair portion of that fee that goes to the States is used for education. That is an important part of the revenue base of our States. A large part, no, but an important part. How much do we get from these royalties? When someone wants to produce oil on public lands, how much do we get from the royalties of 12 percent? Well, it is 12 percent of the price of the oil. What is the price of the oil with respect to the independent oil companies that produce it and sell it? That sale price is the price of the oil. They are then required to pay a royalty fee on the price of the oil. So an arm's length transaction between a willing buyer and a willing seller establishes the market price for oil. That is not a problem. That is not a matter of contention.

But what about a company that is a large integrated company that produces oil and then, as a producer, sells it to itself as a wholesaler or a retailer and it produces the oil and prices it and sells it to itself? What about that company? What then is the price of the oil, and how much in royalty payments do the American people get from that transaction? The answer is, the price of that oil in a large integrated oil company is whatever the company says the price of the oil is.

What if they say, gee, well, the price of our oil is \$4 a barrel, and you get 12 percent of that? Are we being cheated if, in fact, oil is selling for \$12 a barrel and they say, "Ours is only worth \$4 because we are selling it to ourselves, and we have artificially priced it because we want to avoid paying your fees, avoid paying our fair share to the American people?"

Are we being cheated? Of course we are being cheated. The question is, Who cares about that in here? Does anybody care? Does anybody care if the American people get taken to the cleaners by somebody that wants to underprice something they sell to themselves and, as a result, pay the American people something less than they were supposed to pay? Does anybody care about that? A few of us do. We will have a vote on it to see who cares.

So what is the royalty fee we get? It is 12 percent times the value of the oil. Who establishes the value of the oil? In

most cases—95 percent of the cases, with all of the independents and some others—it is the fair market value, a willing buyer and a willing seller in an open market transaction, which establishes a price upon which a 12-percent royalty payment is made.

This amendment isn't even a close call, by any standard. I want to use this example to talk about two other things that relate exactly to this, which give me as much concern as this does. In fact, this is not a very large issue. It is an issue of \$66 million a year; \$66 million is a lot of money, but in the construct of a trillion dollars, or a trillion and a half—the \$1.6 trillion budget that we have, and the \$135 billion of revenue here and there—I mean, it is not that big an issue. Yet, they are waging a fight; the major integrated oil companies are waging a fight, and you would think you were taking away their last oil truck.

Let me tell you about an exact replica of this debate. We lost it on the floor of the Senate. We have the exact same issue on taxation—corporations, especially foreign corporations, but domestic as well, that sell to themselves and then tell us at what price they sell the product to themselves, a wholly owned subsidiary, and therefore how much profit they made and how much income tax they will pay to the Federal Government. And 65 percent of the foreign corporations doing business in this country, most of whose names you will recognize, do tens of billions of dollars of business in America and pay zero in income tax—not a penny. Zero. How do they do that? Let me give you one example. A company sells a piano to its affiliated subsidiary and prices it at \$50. Would you like to buy a piano for \$50? It is exactly the same thing we are talking about with pricing oil you sell yourself—undervalue it and pay a tax, or in this case, a royalty, based on evaluation that is artificially low so you can avoid paying the royalty, or as in the case I described, avoid paying the income tax.

How about a tractor tire? I don't know if anybody in here buys and sells tractor tires. Probably not, but \$7.60 is the price of a tractor tire in a transaction between a corporation—a foreign corporation—and its wholly owned subsidiary in the U.S. Why \$7.60? The company artificially prices it low so that it doesn't pay income taxes in the U.S. We voted on that. We voted on something that corrects that problem. We have people in this Chamber, sufficient numbers, who have said, "We don't want to correct that. We don't even want to debate whether it is cheating. We don't want to deal with it because big business doesn't want that to be changed."

We don't intend to change it. It is the same principle here. Big, integrated oil companies sell to themselves, underprice what they are selling to themselves, and, therefore, cheat the American people out of royalty payments that they ought to be making.

Then members come to the floor of the Senate and say to us, "Gee, you are being unfair." We are not being unfair. We are required to stand up for the interests of the American people. They own that land. They own that land on which drilling takes place. They are owed the 12-percent royalty based on a fair computation of the price of that oil.

I will tell you one more story. I served in State office before I came here. In our State, we assess a tax on railroads. It is exactly the same principle we are talking about here today. We assess a tax on railroads. When I assumed office as Tax Commissioner, which was an elective office, and assumed responsibility for that tax, I asked one of the folks who were responsible for that tax—which is an ad valorem property tax on the railroad system—"How do you do that?" He said, "Sit down and I will show you." He said, "Because the railroads aren't bought and sold, you look at all of the stocks and all of the debt. Assuming you bought all of their stock and debt, that is the value of the railroad." I said, "Tell me a little more about that." He said, "Here is the stock. I sell you this railroad. Here is the stock." I said, "Gee, what price are you using, par value?" "Par value," he said.

Remember, we have been doing that for 25 years. The railroads indicated to us that that is the value. Using the par value, of course, is absolutely ridiculous. Par value has nothing to do with the value of the railroad stock. But the industry had convinced the people in our State who value railroads to use an artificially low, absurd value for the railroad stock. They were fat and happy for dozens of years underpaying their taxes. They loved it. The minute I decided to change it, they said "Holy cow. What are you doing to us? Why on Earth are you being unfair to us?" I said, "I am not being unfair. I am asking you to do what every other American does—pay your fair share of the taxes."

That is the principle and the issue on which we will be voting. The principle and the issue here is not about ma and pa. It is not about independents and not whether you support the oil industry. I do. I have cast a lot of votes on behalf of the independents, and support the majors as well, because I think they play an important contributing role for this country in providing energy for our future. But in cases like this where you have integrated companies who are undervaluing their oil so they can underpay the royalty fee they owe to the people of the United States, I say let's correct it.

Some of my colleagues say that underpayment is not happening.

Let's take a look at the rates. Alaska settled with the oil companies for over \$2.5 billion. Is that because somebody was making arithmetic errors? I don't think so. California, \$350 million; Texas, \$17.1 million.

My point is that the States have been plodding their way through this issue with respect to royalties owed to the States. Can we not have the strength to stand up here and say to the integrated oil companies, "You have a responsibility to be fair to the people of the United States? We are not asking for more than you owe. Your oil prices have declined. Therefore, you should pay the new price." We understand that. "We are not asking for more than you owe; not a penny more. We are asking you on behalf of the people of this country to pay your fair share."

What is happening today—and in this bill that came to the floor of the Senate—is an attempt to intercept a rule that will require these folks to pay their fair share of royalties. And a bunch of folks here in the Senate stand up and say, "No, no, no. We want to protect the old order." The old order is to let people sell oil to themselves, to underprice it, undervalue it, and avoid paying the American people what they owe them in royalty fees. That is what is wrong.

If we turned out the lights and voted on this, people in this Chamber would express that view. I hope when we have a vote on this we will all decide that there is a right and wrong answer. The right answer is to just ask the integrated majors who sell oil to themselves to price it fairly and abide by the new MMS rules. They have been studied and worked on and they are fair. Do this the right way.

The Senator from California is not on the floor trying to attack an industry. The Senator from California is not offering an amendment that in any way affects the independent oil producers. Ninety-five percent of the oil producers in this country will be unaffected by this amendment, 95 percent of them. In fact, some of those who have been unaffected have been convinced to send us letters saying that they are going to be affected by it. I assume they have been convinced by their bigger cousins, or bigger uncles. But the fact is, it is wrong. Calling a tail a leg doesn't make it a leg at all, as Lincoln said. Saying this affects independents doesn't make it affect independents. It does not. It is a very simple, direct approach to say to the integrated oil companies who sell oil to themselves that they have a responsibility to price oil fairly so that the American people get what they deserve.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. DOMENICI. Mr. President, will Senator NICKLES yield for an inquiry?

Mr. NICKLES. Certainly.

Mr. DOMENICI. Mr. President, I would like to state for anybody who would like to speak in opposition to the Boxer amendment that we have a few minutes left. I would like to ask unanimous consent that on our side, when appropriate, that the following

order for our speakers be the order: Following Senator NICKLES, who will speak for 10 minutes, the Senator from Louisiana will speak for up to 5 minutes; then Senator HUTCHISON for 25 minutes. That will leave some additional time for additional Senators, or for me. We would like to do it in that order pursuant to the rotation from one side to another.

I ask unanimous consent that be the order.

Mrs. BOXER. Mr. President, may I ask the Senator? That sounds fine to me. In other words, all of your three speakers will include Senator HUTCHISON, and we will finish up with our time. Is that what the Senator is suggesting?

Mr. DOMENICI. I don't want to do that. I said that Senator NICKLES will go next. If you have somebody, they will be next. If you don't, Senator LANDRIEU will go next, and back and forth. But our times are now set for three Senators. As Republicans are recognized, they will speak in that order.

Mrs. BOXER. That is fine.

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

Mr. DOMENICI. I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I want to compliment my colleague, Senator DOMENICI, as well as Senator HUTCHISON, for their leadership on this issue.

Mr. President, I want to correct what I hear from my colleagues, the proponents of this amendment, and make a couple of statements that I think are factual.

One, I think I heard somebody say on the other side—Senator DURBIN—that there were not any hearings. We had a hearing. I conducted the hearing. I don't conduct hearings very often, but when this issue came up, I knew a hearing was needed. Some people have demagogued this issue and tried to use it for whatever purposes, political or otherwise. I wanted to know the facts. I am chairman of the relevant subcommittee in the Energy Committee so we scheduled a hearing. We had the hearing, I believe, in June of this year.

There are just a couple of points that I would like to make. One, in testimony before the House subcommittee, the director of MMS said the purpose of the regulations were not to raise money. She said, that the regulations are to be revenue neutral. I hear all of the list of the groups who are supposedly proponents of the Boxer amendment—schoolboards and so on—thinking they are going to get a lot more money. The proposed regulations are supposed to be revenue neutral. It is not supposed to raise any money. Proponents are saying, "Oh well. If we don't pass this amendment, the schoolboard is going to be out of some money," and so on. That is false. It is not the case. It is contrary to what the director of MMS has testified to.

I don't happen to agree with the director of MMS, or the Assistant Sec-

retary of the Interior in proposing this oil valuation regulation. I think they have gone too far. I happen to like Mr. Armstrong. But I don't think their regulation makes sense. That is one of the reasons we had hearings.

One of the things we don't do enough of in the Senate and House is we don't have oversight over our various agencies. A lot of times the agencies propose rules and regulations, and sometimes those rules and regulations don't make sense. They may be well intended, and they may have stated goals of simplicity, clarity, and definability, but they may do just exactly the opposite.

Unfortunately, the regulations that MMS has come up with—at least according to the people who work in the industry—the regulations won't clarify anything. They won't even raise the Government any money—maybe not as much money as they are raising right now. What they will raise is litigation. That doesn't help anybody. That doesn't help the Government. That doesn't help the schoolboard. That doesn't help the tribes. That doesn't help the States or anybody, except for maybe the lawyers who are involved in the litigation.

Some of us have looked at this. This is one of the regulations that we need to review. I mentioned that we had a hearing. Several of us have had meetings with members of the administration, the Department of the Interior, and MMS proponents of this regulation, and people who work in the industry. We tried to pull them together.

Both Senators from Louisiana, both Senators from New Mexico, Senator HUTCHISON from Texas, and myself have met with MMS and said, "Can't we figure this out? Can't we come up with workable, definable, clearly understandable regulations on how to determine royalty evaluations?" We have had interesting meetings. But, unfortunately, sometimes it appears that MMS is not really listening to some of the complaints and really hasn't made the necessary changes to the regulations to make them workable.

I would take issue with some of my colleagues who said, "Well, these big oil companies, they are cheating, they are selling to an affiliate, and they lowball the price, and they make more money, and the Government is being cheated."

I do not think that is the case. If it is the case, the government has every right to take the company to court, and maybe they can win.

What we want to do is have clarity. We want to have definability. We want people to pay exactly what they owe in royalties—not a dime more, not a dime less. And that is our objective. It is easier said than done. And the MMS came up with some proposed regulations. They said, "Oh, well, we will put out some prices that are on the exchange, and that will be what the royalty will be based on, on that given date."

But wait a minute. What if there is an arm's length transaction where somebody actually bought and sold? Maybe they didn't buy or sell at the same price posted on the exchange. Market valuation on some exchanges is based on some transactions, but you have some transactions below it and some above it; you have some transactions that might be a little higher because of a little different weight of oil or different grade of oil or a transportation problem or a little different sulfur content. There are lots of variables in the equation.

So to have some bureaucrat say, well, I am going to pick this market index or this posted price somewhere and that will be the value of what the Federal Government will be paid on instead of the actual value of an arm's length transaction, that doesn't make sense. I will tell you, in my own State we have several different prices on different types of oil. We have Texas crude; we have Oklahoma sweet, Texas sweet; we have Cushing prices; we have a lot of different prices, posted prices, and so on.

So I just mention to my colleagues, I don't think the oil companies are trying to cheat anybody. I think the proposed regulations are not clear; they need to be clarified. We need to work with MMS to try to come up with better regulations that are clear and work. They haven't done it yet. And their proposal leaves a lot to be desired. Their proposal would result in more litigation, and that is not going to help any schoolboard in the country.

And so I think we have the responsibility in Congress as maybe the countervailing branch of Government, the branch of Government that listens to our constituents when we find a regulatory agency that is not listening, that is not working, that is not promulgating regulations that will work, to get their attention. We have an obligation to make them work with us to come up with something that is reasonable and sound. And if they continue to come up with regulations that will not work, that do not make sense, then we should stop that. This is called checks and balances. It is called balance of power. We cannot allow regulatory agencies to run amok.

And so I think we have a constitutional responsibility to try to make some progress in this area. If we find regulatory agencies that are not doing what they are supposed to be doing, we should hold them in check. That is what this provision, that the Senator from California is trying to strike, strives to do. This provision doesn't say that MMS cannot go further on their proposed regulations. It basically says let's put out regulations that are reasonable and sound. And many of us have tried to facilitate meetings to make that happen.

My colleagues on the other side said that this proposed rule exempts 95 percent of the companies. Independents are not covered. Independents tell me

they are covered. The regulations are written for all oil producers; 100 percent of all oil producers are covered by these regulations. Some of my colleagues have said: Oh, no; it just applies to those companies who are selling to marketing affiliates. Guess what. More and more companies today are selling into a company that maybe they have a little piece of or something—a natural gas marketing company, an oil marketing company, and so on. They are banding together in these types of organizations. And so this regulation certainly reaches, I would say—I don't know what percentage, but according to the independent petroleum producers—I happen to think they would know more about it than anybody else—it says 100 percent. The independent producers say in a memo, "Percentage of oil producers impacted by the proposed oil royalty rule, 100 percent." I happen to think they know what they are talking about.

And so again I compliment my colleagues, Senator HUTCHISON and Senator DOMENICI, for including this provision in this bill. I think they are right in doing so. I think MMS needs to work with Congress and with the affected parties to make sure that every company pays exactly what they owe—no more, no less.

If colleagues are interested in trying to raise money, they should try to raise the royalty rate, and we can have a debate on that. That is certainly within their rights. I don't think they will be successful, but they have the right to try that. But to try to raise the royalty rates by changing the regulations or trying to change the regulations in a way so that they will raise money is a tax increase by a regulatory agency, I reject that emphatically. Congress has the power to raise taxes, not some unelected bureaucrat in the Minerals Management Service.

To all the arguments that our colleagues from California and others made, that this proposed regulation is going to raise so much money and it is going to help schools, and so on—no; what we have to do is make sure that every company pays exactly what they owe—no more, no less. The current system is not correct. It needs to be improved. However, the regulations proposed by the MMS do not fit the bill. They need to be revised. We are trying to get their attention so they will revise those rules in a workable, definable, understandable way that is clear, so that everyone will know exactly what should be paid and will pay that much and no more.

Mr. President, again I thank my colleagues for their efforts, and I urge my colleagues to support our effort to defeat the amendment of our colleague from California.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from California.

Mrs. BOXER. I would like to yield 10 minutes to my colleague from Arkan-

sas, Senator BUMPERS, but I want to just make a point on the comments of Senator NICKLES.

We have here a chart that shows how many meetings were held before this rule was put into place. I want to make sure that colleagues understand there were actually many, many months of proposals. That it is a fact that the purpose of this rule is not to raise additional revenue. But, if companies pay their fair share, the Mineral Management Service has shown us, if they do in fact pay the royalty payment on the market price rather than a made-up price when a company sells to its own affiliate, taxpayers will receive \$66 million in additional revenue. That is why all these various schoolboards are for it and many state land commissioners.

I wanted to point out, when the rule was beginning, there were very, very favorable comments from Louisiana, Wyoming, New Mexico, Alaska, and there is a reason for it. We see that these States have had to sue in the past, I say to my friend from Oklahoma, for the fair share of the royalty payments that they believed they were owed. And I think that the States are saying to us: "We don't want to go this route. We don't want to be litigious. We don't want to be in court every day. We want a fair rule." I know my friend from Oklahoma wants a fair rule. The issue is, How do you go about it? Do you go about it by shutting down the ability of the Interior Department to proceed on what many in the States are saying is fair, even New Mexico? The Tax Revenue Department said, "The MMS should be commended for the effort they have made in developing oil valuation regulations that are fair to all interested parties."

We can see that the oil companies settled for \$2.5 billion in Alaska; in New Mexico, \$8 million; in California, \$350 million; in Texas, \$17.5 million. The fact is, oil companies are settling because they are not in a strong position. When you pay a royalty payment based on a made-up price and not a market price, you open yourself up to lawsuits.

I also wanted to point out that if you really look at the companies that are affected by this—and we have put this in the RECORD—they make in the billions of dollars, and these royalty payments are a tiny percent. As a matter of fact, what we have learned is that one of the companies, Shell Oil, which would see the greatest increase in their royalty payment, that great "increase" is equal to 7–100ths of 1 percent of Shell Oil's revenue every year.

So, we are not talking about huge sums of money to these giant oil companies. What we are really fighting about here is the principle, the issue that they should pay their fair share. And even if \$66 million does not look like a lot of money to some of my colleagues, it is a lot of money when it goes into various States and into classrooms.

I yield 10 minutes to Senator BUMPERS at this time.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I thank the Senator from California for yielding to me.

Mr. President, just to put this thing in perspective, I call on all of my colleagues to recall the number of times they have appeared before their local chamber of commerce and Rotary Clubs and told them that, once they get to the U.S. Senate, or even the House of Representatives, it is going to be a new day. They are going to protect the people's rights. They are going to take care of their money. We have pledged: "I will treat your property and your money as though it were my own."

I have made that speech, and I dare say 99 other Senators have made it as well. So I say, we have to ask ourselves, are we fulfilling our commitment and our solemn vow to the people back home? Ask yourself this question: If you had an oil well, and you discovered that your lessee was selling your oil to an affiliate or a wholly-owned subsidiary, and they were selling it at a price considerably less than published spot prices of that oil—would that be acceptable to you as a private landowner? Let's assume your lessee is selling your oil to an affiliate for \$12 a barrel, but the spot price of that oil is \$14 a barrel—if you were the royalty owner, wouldn't you question that? Would you tolerate it?

I read a story in USA Today from which I quote:

States, native American tribes and landowners are suing for the full, open-market price fees, and a few oil companies have begun to cut settlement deals from Alabama to New Mexico, rather than face trial. According to the Watchdog Project on government oversight, there is more than \$2 billion in uncollected Federal royalties at open-market prices, and the total grows by \$1 billion every week.

When you vote against Senator BOXER's amendment, are you keeping faith with the people back home who own this oil? It does not belong to the U.S. Senate, it belongs to the taxpayers of America. When the Secretary of the Interior signs a lease with Exxon, Mobil, or whoever, the lessees agree to pay a royalty, usually 12.5 percent, on the oil they take from the Federal land. However, having agreed to that, they now are not paying that. While I appreciate that oil prices are currently low, that does not provide justification to cheat the taxpayers of America out of the fair royalty on their oil.

If this case did not have any merit, why did Mobil recently settle with the U.S. Government for \$45 million on this very issue? They have essentially agreed to the very same thing Senator BOXER is saying they owe. Why are Native Americans suing for royalties? Why are States collecting big, big settlements with the oil companies? Precisely for the very reason Senator BOXER brought this amendment up. All she is saying is let's collect on the

lease for what the oil brings, not for some fictitious price created by selling to yourself, by selling to an affiliate. If you are going to treat the taxpayers' money as though it were your own, ask yourself what would you do? Why, you wouldn't tolerate this for 10 seconds, would you, if you found out that the oil company that had the lease on your land had been selling oil to a wholly-owned affiliate at \$2 under the spot price for which they could have sold it?

This reminds me of a coal case. We found out that Ohio Power Company, a utility company in Ohio, had been buying coal from one of its wholly owned affiliates for 100 percent more than they could have bought it on the open market. You talk about a cozy relationship. This was a slightly different situation, but I am just telling you, these things happen. So, if you vote against Senator BOXER's amendment, don't go home and tell people how you are treating their property as if it was your own, because you wouldn't tolerate it for a second.

Mr. President, the Minerals Management Service is the agency we depend on to manage royalties on Federal lands leased for oil and gas. We expect them to get the most for it they can get. Congress has set the royalties on oil here. We say the Secretary of the Interior cannot lease it for less than 12.5 percent, and then say to the Minerals Management Service, "But if you catch the oil companies pulling she-nanigans, don't do anything about it"? If Senator BOXER's amendment fails, that is what we are saying.

So I regret that the price of oil is low, and the Senator from Texas has made that point a number of times; oil prices are low. Most of you know I have spent 9 years trying to make the Federal Government make the hard rock mining companies pay royalty on the land we give them for \$2.50 an acre. I faced it. I am leaving here at the end of this year. I don't know what will happen after that, but I can tell you one thing, I tried for 9 years. I stood where I have been standing right now for 9 years and squealed like a pig under a gate, saying the same thing I am saying now: You are cheating the American taxpayers.

You think about us giving away 3.2 million acres of land in this country for the last 130 years for \$2.50 an acre, land that had billions and billions of dollars of minerals under it, and what did the taxpayers get back? They got 557,000 abandoned mine sites that are going to cost them \$70 billion to reclaim. Royalties? Zip. Nothing. Not a dime. I lose it every year, and the people who vote against me go back to the Chamber of Commerce and say, "Oh, I'll treat your property just as though it were my own." If you believe that is the truth, you ought to be in a mental institution. If that is your idea of treating property the way you would treat it if it were your own, you need a guardian. The situation here is essentially the same thing.

The other day when I tried to raise another issue, just an environmental issue on how we are going to mine these hard rock minerals, I lost. I got 40 votes. I knew I was going to lose. The same people who voted against me will go back home and say they are environmentalists, even though they do not want the Interior Department to regulate how we mine and how we reclaim the land after we mine. I just got killed on it, 58 to 40. As I say, I am leaving, so the other side won. I know a couple of people here who I think will take it on, and it will be in capable hands, but I forewarn you: "It ain't an easy battle." That is the most egregious case I have ever run across in my life—billions in gold and palladium and silver taken off the land over the years and taxpayers don't get a nickel for it. All they get is a big environmental Superfund site.

Mr. President, in this case I will plead with my colleagues, the States favor this. I understand Wyoming has kicked the traces over, but the rest of them favor this amendment, and they are cutting deals with the oil companies right now. Senator HUTCHISON said no, the United States is not going to cut a deal; if the Indian tribes and the States want to, that is their business, but oil prices are low, and we are just not going to bother with it.

Gold prices are low, too, and I know that.

Mr. President, I will close by simply reminding my colleagues that I have heard in the last 24 hours that one of the principal candidates planning to run for President says he is reconsidering because he doesn't know whether he wants to subject his family to what goes on up here.

Mr. President, I ask unanimous consent for 2 additional minutes.

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

Mr. BUMPERS. He says he doesn't want to subject his family to the kind of things to which politicians are being subjected. There are two sides to that story, and I understand that.

When I ran for Governor 28 years ago—I won the Democratic primary almost 28 years ago today—I had a slogan: "Let's get our State together." We had been bickering and nothing was happening in the State. I said, "Let's get our State together," and when I was Governor, I called people together, Republicans and Democrats, and we worked well together. We had 4 great years, if you will pardon a self-serving statement.

I always said politics is a noble profession. My father said it a long time before Jack Kennedy did. He believed it. He served in the legislature. He wanted his two sons to go into politics. How long has it been since a parent has said they want their son or daughter to go into politics?

In any event, he didn't say all politicians are noble, he said public service is an honorable, noble profession. I have always believed that. I think it

still is. I think what a tragedy it is that the country is in the situation it is right now and the effect that has on people and their willingness to serve and their wanting to serve as I did. I think about us voting on things here where it is obvious to me—I don't want to seem arrogant about this, but this is not even a debatable amendment about what is fair and what is right. We all know what it is. So I plead with you, do your duty. I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Louisiana is recognized.

Ms. LANDRIEU. Thank you, Mr. President.

Mr. DOMENICI. I ask the Senator if she will yield for 2 minutes.

Ms. LANDRIEU. Yes, I yield.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I say to Senator BUMPERS, in particular I speak of the last 2 minutes of his statement. I commend him for what he said and his concerns about the condition of our country, and in particular—I use a different word—but the cynicism that is generating by leaps and bounds about politicians and people in public life. We can't have our democracy and have that continue indefinitely. It will go right to the heart of it.

Having said that, I was going to say something a little bit more jovial and just suggest that your eloquence is going to be greatly missed, but the fact that you keep losing, could it mean that you happen to be wrong? I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I say to my wonderful colleague from Arkansas before I get into the substance of my remarks, I have tremendous respect for him for his tremendous fight over such a long period of time on issues like this. Yesterday, we were together in our arguments because we have very similar feelings, which I think is shared by many in this body, about paying the taxpayer their fair share when it comes to minerals. I say to Senator BUMPERS, he is going to be missed. I am going to pick up the fight, as I told him before, on hard rock mining, but there are some big differences between what we talked about on mining yesterday and what we are speaking about today.

One of those big differences is in hard rock mining there are no royalties paid. It is a system that cries out for reform and change. In this instance—and I know you say, "Well, there is LANDRIEU; she's from an oil and gas State. We knew she was going to say this." Trust me, when this issue first came up, I didn't know what I was going to say, for a number of reasons. Maybe I should say something about that first.

Before you came here, you were a Governor, but I was a State treasurer and I managed a billion dollars that

came from the Outer Continental Shelf. Because we are a poor State, because we haven't managed our resources as well as we could have in the past, and because of other issues—we didn't have computers in the classrooms—I managed that money more carefully than I manage my own. It came from these royalties, and I treasured every single penny, because with every dime, we could then hire a new teacher or put a computer in a classroom or buy software for kids. I am there with you on that 100 percent. We had that billion dollars, and it is growing every day and we are happy for it in Louisiana.

I believe as deeply as I can express that we want the taxpayers to receive their absolute fair share to the penny because these dollars can be put to good use, and I hope they will be put to better use, because the other point I want to make is I am getting ready to introduce—I hope with Senator BUMPERS and others and Senator HUTCHISON from Texas—a bill that will help redistribute these royalties that we get and have been getting since 1955 to the tune of \$120 billion, which the Federal Government has received from these royalties; to redistribute it in a better way; to invest it in our environment; to invest it in the expansion of our national parks; to invest it for the expansion of our urban parks; to prevent species from becoming endangered, a real investment in our environment, a real payback in the right and noble sense to the taxpayer.

I am 100 percent on the record for just royalties being paid, for substantial royalties being paid when appropriate, so I don't want there to be a question—and I so much respect the Senator for his fight—but this issue is about really litigation and lawsuits and unclear regulations. It is not necessarily an environmental or antienvironmental issue, and it shouldn't be a drilling or a nondrilling issue.

It is about whether we should adopt a rule that is either going to stop the litigation, or we are going to adopt this new rule that isn't going to stop the litigation. The rule that we have to consider for which we are now asking for a suspension is not going to do anything, as much respect as I have for Senator BOXER, in stopping the litigation.

To put this in perspective, let me say to my colleagues that last year, Minerals Management Service received \$6 billion from royalties. At issue here is \$66 million, which is less than 1 percent of the total. This isn't about oil companies not wanting to pay royalties. I say to the distinguished Senator from California, they sent to the Federal Treasury \$6 billion last year, and the year before it was \$4 billion, and since 1955 it has been \$120 billion. They are not opposed to sending their fair share, but because the regulations are complicated, they are difficult—the oil industry is reorganizing itself, driven by

technology and the pressures—may I have 2 more minutes?

Mr. DOMENICI. I yield 2 more minutes.

Ms. LANDRIEU. The oil industry is reorganizing itself in such a way that all it is asking for, I say to the Senator from California and others, is a fair rule that is clearly understood so that they can pay their fair share, get out of the courtrooms, cut their cost of their lawyers and accountants, pay the taxpayers their fair share, and get on with their business.

It is in nobody's interest for this to continue in this way—not for business, not for jobs, not for the taxpayer. That is what this argument is about, with all due respect to everyone who has said, I think, very tough things about oil companies wanting to cheat.

Most of the oil companies I know do not want to cheat. Most of the oil companies are happy to pay their tab, they just would like a clear signal about what tab it is that they owe. And they do not want to spend their time in court.

I am afraid if we let this rule go through, we are going to spend more time in court, waste more taxpayer money and not move us 5 feet down the ballfield on this subject. So that is why I am opposing Senator BOXER's amendment and supporting to give us additional time to work out some language so that everybody can pay their fair share, and the taxpayers can benefit, and we can all get out of the courtrooms and get on to running our businesses.

Thank you so much.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. BOXER. Thank you very much.

I thank my dear colleague from Louisiana for giving us her perspective from her State. And I greatly respect it. I want to pick up on something she said. She said, "It's in nobody's interest to continue in this way." And what is "this way"? This way is lawsuit after lawsuit after lawsuit. And she is right, we should not continue in this way.

We have seen Louisiana sue the oil companies and collect \$10 million because the oil companies are cheating on their royalty payments. They settled. The oil companies would not have settled for these large sums were they not cheating. Alaska settled for \$2.5 billion; California \$350 million so far; New Mexico, \$8 million so far; private royalty interests \$15 million so far; and Texas \$17.5 million so far.

In other words, given the current status, without a change in the rule, which Interior is trying to put into place, we will continue in this way—lawsuit after lawsuit. And no one can say—I mean, you would have to be born on another planet to say that oil companies would settle for over \$2.5 billion

if they had not been making a mistake on their royalty payments which they send to the taxpayers of this great Nation.

I think the issue here is: Do we want to continue in this way, which is what the rider does? It keeps us for another 12 months, for a total delay of 15 months, in this way of litigation and lawsuit and aggravation and all the rest.

What we are saying with our amendment is: It is time to change the way we do things. And my friends are saying, "Oh, all we need to do is meet and we'll fix it up," and so on. "Everything will be fine. We know we can resolve this. We can negotiate it."

This rule started back in December of 1995. We are headed toward the end of 1998. There were 14 public hearings, 5 solicitations for comment, all sorts of things, to resolve this matter. The basic issue is this: Companies that sell to their affiliates are paying a royalty on a made-up price, a phantom price, rather than paying it on the fair market price—which 95 percent of the oil companies are doing.

Just 5 percent of the oil companies are involved in this and will have to pay a fair share. It is not the mom and pop folks. It is a list here, a page and a half long, compared to 34 pages long of those unaffected. Shell makes \$29 billion a year in total revenue, Exxon \$134 billion. We are talking about the biggest corporations who, in fact, themselves are admitting by settling all these myriad of lawsuits, that they have not paid their fair share to the States or to the Federal Government.

The PRESIDING OFFICER. The Senator has used her 3 minutes.

Mrs. BOXER. I ask for 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. BOXER. Here is where we are. Here is the market price, the real price. You know, this is a capitalistic system. I am stunned by my friends on the other side of the aisle. I used to be a stockbroker, so I know what supply and demand means. A market price is supply and demand. It is the fair price. When the market price goes down, the royalty payment goes down. When the market price goes up, the royalty payment goes up.

But they are not paying on the market price, these 5 percent of the companies who own their affiliates and sell to their affiliates. They make up the price and they pay a royalty on that price. How would you like to be able to do that in your life? It is a pretty sweet deal; and it is wrong. I think that the various States are saying, thank you very much to the Minerals Management Service for moving forward. All of them here are saying: We commend you. "The Minerals Management Service must be complimented," said Wyoming's Governor in 1997. Louisiana said it, Alaska said it.

I withhold for the remainder of the debate.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized for 25 minutes.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Will the Senator from Texas permit me to use a minute off our time?

Mrs. HUTCHISON. Of course.

Mr. DOMENICI. Not off your time; off the bill.

Mr. President, let me just say, immediately after Senator LANDRIEU spoke, I wanted to get up, but I did not time-ly, so Senator BOXER spoke. But I commend her. I think she made a very brief statement today, but I think it was right on point. For those who are looking for a succinct wrap-up of what this issue is about, that 5 minutes is a very good summary.

The issue is whether the new set of rules is going to solve the problem of litigation and of making things clear and reasonable and easy to understand, or is it going to invite more litigation? And I think the industry, small and large, come down on the side that it is too complex, leaves too much to the subjectivity of the Mineral Management Service, and has a number of rules that are so arbitrary and onerous that this is not going to help us out of the mess we are in. I am saying it my way; I think Senator LANDRIEU said it her way. But before we are finished, we will talk about that some more.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I want to answer some of the arguments that have been made earlier in the debate. First, it keeps being said that the oil companies are not paying their fair share, that they are in lawsuits about it, and that they have been settling the lawsuits and therefore they must be guilty. All of this is totally separate from the amendment before us today.

There is a disagreement between the oil companies and several States about how the valuations under the present regulation have been made. I want the oil companies to pay their fair share. So does the Senator from California, so does the Senator from New Mexico, so does the Senator from Louisiana. These matters are in court, and they will be settled in court. They have nothing to do with the amendment before us today. In fact, as the Senator from New Mexico and the Senator from Louisiana have said, the oil royalty valuation process is very complicated.

The new MMS proposal is very complicated. In fact, I would make the case that we do not change anything in the process as far as making it clear what is owed. It is just a matter of the Mineral Management Service raising the rates on oil companies at a time when oil prices are at an all-time low. That is the issue.

A second argument has been made that this only affects big oil companies. I would just say that I have re-

ceived a memo from the Independent Producers Association of America that represents the small independent oil producers. And what they say is: "Percentage of oil producers impacted by proposed oil royalty rule—100 percent." Because everyone who is in this industry knows that whatever is the standard for royalties on public lands is also the standard throughout the industry.

So to say that we are only talking about 5 percent of the large oil companies in America is absolutely untrue. We are talking about small producers, independent producers, and we are talking about marginal producers. Those are the ones that are drilling 15 barrels or less a day. They are operating at very low margins. With the oil prices at 11- and 12-year lows, they are not even making a profit in many instances. So we are affecting oil jobs in our country.

Now, it was said by the Senator from Illinois that the amendment delaying the rule was put on an emergency supplemental appropriations bill. That is true. It was put on an emergency supplemental appropriations bill and passed by both Houses of Congress and signed by the President. The reason it was put on is because the Bureau of Mineral Management Services announced they were going to finalize a rule without going through the congressional process that they had been told they must do. There was no alternative but to immediately stop that. Otherwise, they were going to implement a rule without reporting to the appropriate congressional committees.

Of course, Congress exercised its prerogative to say no, that is not what we told you to do. After all, we do make the laws and the policies of this country. Raising taxes is the prerogative of Congress for a very good reason—because we are accountable to the people. If we are going to set the policies of this country, we must consider many things. We must consider jobs, we must consider crises, we must consider security, how much of our oil needs to be imported, is there a security issue in our country. The reason that elected representatives make policy is because we are accountable. We look at other factors such as how much of our oil we are importing, how many jobs are going to be affected, and what is the overall situation in the economy of our country.

I want to talk about the first part of a policy decision that Congress considers, and that is jobs. Oil prices are at a 12-year low in this country. I refer to a chart for the jobs at risk in our country if we now raise the cost of drilling on oil companies. Let's take some examples: In California, 115,000 jobs are at stake; in Missouri, 31,000 jobs are at stake; in Montana, over 9,000; New Hampshire, over 3,000; New Jersey, almost 30,000; Nevada, over 7,000; Ohio, 54,000; Pennsylvania, 48,000; Texas, 253,000; Virginia, almost 30,000.

Now, those are the jobs at stake.

Let me just read to Members recent articles that talk about the job layoffs

that are occurring right now because, of course, the industry is on its knees.

August 28, 1998:

J. Ray McDermott, a builder of offshore petroleum platforms, has laid off 41 employees in Houston [Texas], cutting about 10 percent of that office's staffing.

[McDermott] left open the possibility that more layoffs could result if the oil market remains in a slump.

August 29, 1998, Halliburton lays off 100:

The state of the oil industry is being blamed for the layoffs of about 100 employees at Halliburton Energy Services [in Oklahoma.]

August 12, 1998:

Schlumberger laid off several hundred people in the second quarter and plans further cuts, as falling oil prices lower demand for its services and products.

Schlumberger's news comes as a number of oil-field-service companies have been cutting staff in recent months. The industry is struggling with some of the lowest crude oil prices in 12 years.

Oil and Gas Journal, August 3, 1998:

Triton Energy Ltd., Dallas, laid off 65 employees from its Dallas office as a part of a corporate restructuring and cost-reduction plan. The move cuts Triton's Dallas staff by more than one third.

August 18, 1998:

Low prices particularly hurt small producers who rely on marginal, or stripper, wells producing less than 10 barrels of oil a day. Some 74 percent of New Mexico's 24,000 wells are considered marginal.

Some small producers have cut back or eliminated new drilling projects. . . .

Others have shut-in wells—stopping pumping, a solution intended to be temporary but which often results in permanent loss of production.

Tom Dugan of Dugan Production Corp. in Farmington [New Mexico], said, "Essentially our income has been cut in half within the last six or seven months."

Dick Frank, the state Department of Labor's area director in Lea County [New Mexico], said the unemployment rate in the oil rich county has been climbing, reaching 6.7 percent in June.

Oil and Gas Journal, July 20, 1998:

An independent Petroleum Association of Mountain States survey has found that the plunge in oil prices is forcing marginal well shut-ins in the U.S. Rocky mountains. Twenty producers have shut in more than 200 marginal wells. . . .

Big U.S. Independent Union Pacific Resources said it will slash its rig count from 49 to 18 for the balance of the year, further depressing an already shaking North America land rig market.

Oryx Energy batted down the hatches, July 28, saying it will cut its 1,000-worker payroll costs 20 percent, or \$14 million a year, and sell another 35 million of properties in response to continued weak oil prices.

I think it is very important that we look at the impact on people, on their families, their lives, on States that are not going to have sales tax revenue if people don't have jobs in States that will have to start paying unemployment compensation because people don't have jobs.

Yesterday, in the debate on the mining bill, Senator Harry REID from Ne-

vada said, "These are the best blue-collar workers in America," and he was talking about gold prices being the lowest in years. I can make the same arguments today. The Senate voted for keeping the mining industry intact yesterday. As Senator BUMPERS said, he lost his argument.

The same arguments apply today. We have oil prices at their lowest in 11 years and we have the best blue-collar jobs in America. In fact, oil and gas jobs are among the highest paid in our economy. In Montana, for example, the average oil and gas jobs pay \$32,380 compared to \$20,500, which is the average of jobs in Montana. Every oil industry job creates an average of 2.3 service-related jobs.

This is a very important issue for jobs in our country. As you can see, almost every State is affected. It not only creates jobs in the industry, but over two jobs in the service industry are related to oil production in our country. What could be bad about that? Yet, we are talking about raising fees and taxes on the companies that are on their knees, with low prices, that are laying people off as we speak. It doesn't make sense.

The other side has said, "We are losing \$5.5 million a month." In fact, I thought Senator LANDRIEU made a very important point. We are talking about \$6 billion in revenue to the Federal and State Governments, and they want to tear it down, saying they are going to add \$5 million a month. You would jeopardize a steady stream of revenue from an industry that is on its knees, that is shutting down wells as we speak, to try to gain \$5.5 million a month. Even if you thought you were going to get \$5.5 million a month, you would have to assure that the companies are going to stay in business.

If they go under, you are not going to get \$5.5 million a month; you could lose \$5.5 million a month, and those are jobs that we now have in place. Why would we jeopardize those and risk losing revenue, when you hope they will stay in business and gain revenue? That is not a very good hope when the industry is on its knees.

Let's talk about the policy of raising taxes. In fact, we have shown, both in Congress and in 13 States, that lowering the taxes on the oil and gas industry have actually increased revenues. In fact, the Congress passed the Offshore Drilling Deep Water Royalty Relief Act in 1995. They gave tax relief, they gave tax breaks, lowered taxes, to companies that would go out and do the expensive drilling in the water, especially the Gulf of Mexico. For doing this, the Government has received \$3.1 billion in bids on those leases in the gulf. This has created over 3,500 direct jobs to manage the increased activity. In fact, it has created \$3 billion in revenue. So we have shown that when we lower revenue, we increase the amount that comes into the Federal Government.

When we lower taxes, we increase revenue. This has been duplicated in

my State of Texas, where they have given tax relief to drill the marginal wells which are less than 15 barrels a day in Texas. Or if someone goes in and unplugs a plugged well, they will get a tax break. Here is what that has done in Texas: 6,000 wells were returned to production; \$1.65 billion came into the Texas economy; 10,000 direct and indirect jobs were created every year; and \$22 million more went into the Texas treasury—\$22 million by giving a tax break. Thirteen States have inactive well recovery programs that are doing the same thing.

Yet, the amendment before us today would go in exactly the opposite direction. It would increase the amount that the oil companies would have to pay, putting many of these small producers in jeopardy because that will be the industry standard, creating a loss of jobs and, I submit, a loss in revenue.

I have a chart that shows the economic effect of the abandonment of marginal wells just in 1997. The lost revenue to California was \$45 million; Kansas, \$24 million; Louisiana, \$8 million; New Mexico, \$19 million; Oklahoma, \$29 million; Texas, \$97 million. These are lost revenues because marginal wells went under. They had to plug the wells. This doesn't even address the lost jobs or the lost sales tax revenue to these States.

So I think we have the evidence that raising taxes is going to cost revenue to the Federal Government, not raise revenue to the Federal Government, because so many of the wells in this country are marginal; they produce under 15 barrels a day. So if they go under, these States are not going to get more money for their school-children, they are going to get less. That is what the amendment before us would do.

Let's talk about another policy issue that Congress must address when we increase taxes on an industry. We import over 50 percent of the oil that we need in this country—the oil we need to drive our cars to work, the oil we need to operate our plants, the oil we need to produce fuel for every home in America. Fifty percent is imported. This is a national security issue. It is an economic issue.

Does anybody remember what it was like when we had the severe oil shortage several years ago and people had lined up for 5 hours to get gas for their cars? They could not fill them up; they were limited. They were limited in the amount or the number of gallons they could put in because we had an oil shortage.

This country cannot depend on imports if we are going to have control of our own economy. How could we be talking about shutting down wells and causing our dependency to become greater? It does not make sense. It would be highly irresponsible of this Senate to do something that would jeopardize every person driving a car in this country, every plant that operates, and every home that depends on

oil or gas for its energy. We should not be even considering something so irresponsible.

I have letters of support from many organizations. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, September 10, 1998.

Hon. _____,
U.S. Senate
Washington, DC.

DEAR SENATOR: On behalf of the 600,000 members of Council for Citizens Against Government Waste, we respectfully ask you to oppose any efforts in the Senate to strike the provision in the Interior Appropriations Bill that delays the implementation of a final crude oil valuation rule, unless a resolution between MMS and industry can be reached. The Minerals Management Service (MMS) proposed new oil valuation rules that would eventually raise taxes on producers. The rulemaking effort has involved several revisions to the original proposal, but remains ambiguous, unworkable, and would create even greater uncertainty and unnecessary litigation.

Passage of this provision in the Interior Appropriations Bill will provide the time necessary for the MMS and the industry to reach a fair and workable agreement on the rule, benefiting both sides. The taxpayers have a vested interest in this issue, because the rule proposed by the MMS would lead to an unnecessary administrative burden for both the government and the private industry as auditors, accountants, and lawyers attempt to resolve innumerable disputes over the correct amounts due.

Please take this opportunity to prevent the current proposed rule, which benefits no one, from being implemented. We urge you to oppose any amendment to strike the provision for delay of final valuation rule in the Interior Appropriations Bill as it reaches the floor for debate in the full Senate this week.

It is my hope that you give this suggestion serious consideration. If I can be of further assistance, please do not hesitate to contact me.

Regards,

COUNCIL NEDD II,
Director, Government Affairs and Grassroots.

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, September 11, 1998.

DEAR SENATOR: I write on behalf of the 250,000 members of Citizens for a Sound Economy regarding the Boxer amendment to S. 2337, the Interior Appropriations bill. This amendment allows the Executive branch to operate unchecked in its efforts to legislate through regulation.

Our members have long opposed the reckless regulating that is consuming some federal agencies. Historically, the cost of this type regulation is passed on to the consumer in the form of higher prices for commodities. Specifically, the Boxer amendment circumvents the authority of Congress to ensure that agencies of the federal government operate within the bounds of the law, and it will have the ultimate effect of increase the cost of oil and gas for every American. The appropriators have attempted to support sensible environmental policy through the appropriations process. The Boxer amendment will reverse their sensible policies.

As the Senate considers S. 2337, I ask you to consider the effect the Boxer amendment

will have on consumers and their wallets and vote to defeat the Boxer amendment.

Sincerely,

MATT KIBBE,
Executive Vice President.

NATIONAL BLACK
CHAMBER OF COMMERCE,
Washington, DC, June 10, 1998.

Re Oil Royalties.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate,
Washington, DC.

DEAR SENATOR HUTCHISON: The membership of the NBCC wants to applaud you for your courageous stand taken against the Minerals Management Services attempt to totally control the method (or madness) of collecting oil royalties. Your leadership is certainly pro-business and ensures us of a continued prosperous economy.

The cost of fuel is extremely influential in most levels of our economy and our competitiveness in the global market. Any approach in how we assess royalties is very critical to each and every one of us. Congress should certainly be involved as they truly represent the people, not bureaucrats.

Thank you for your strong position and consider us your ally on this issue.

Sincerely,

HARRY C. ALFORD,
President and CEO.

PEOPLE FOR THE USA,
Pueblo, CO, September 4, 1998.

Hon. _____,
U.S. Senate,
Washington, DC.

DEAR SENATOR: We understand that when the full Senate debates the Interior Appropriations bill next week, there may be an effort to remove the provision which prevents the Minerals Management Service (MMS) from issuing a new ruling on oil royalty valuations until Oct. 1, 1999. On behalf of the 25,000 members of our grassroots People for the USA campaign, I am respectfully asking you to resist any such efforts to remove this provision.

We feel very strongly that this provision will be critical to helping devise a royalty collection system that is truly fair to the federal government and the oil industry. The provision requires the MMS to take the time to develop a more workable rule and not undermine Congress by changing yet another law through bureaucratic regulation.

The new rule proposed by MMS is far too complex and could lead to the loss of hundreds of thousands of jobs in the energy industry, where so many of our members are employed. Please oppose any amendment that would strip this provision out of the Interior Appropriations bill. Our members and their communities are counting on you.

Respectfully yours,

JEFFREY P. HARRIS,
Executive Director.

Mrs. HUTCHISON. First is Citizens Against Government Waste. In part, they write:

On behalf of the 600,000 members of the Council for Citizens Against Government Waste, we respectfully ask you to oppose any efforts in the Senate to strike the provision in the Interior Appropriations Bill that delays the implementation of a final crude oil valuation rule, unless a resolution between MMS and industry can be reached. The Minerals Management Service proposed new oil valuation rules that would eventually raise taxes on producers.

They go on to say:

Passage of this provision in the Interior Appropriations Bill will provide the time

necessary for MMS and the industry to reach a fair and workable agreement on the rule, benefiting both sides.

Here is a letter from the Citizens for a Sound Economy:

I write on behalf of the 250,000 members of Citizens for a Sound Economy regarding the Boxer amendment to the Interior Appropriations bill. . . . Historically, the cost of this type regulation is passed on to the consumer in the form of higher prices for commodities.

Of course, it makes sense that if we are going to raise the rates that producers have to pay, it is going to raise the price of every gallon of gas that you buy at the pump.

Specifically, the Boxer amendment circumvents the authority of Congress to ensure that agencies of the Federal Government operate within the bounds of the law, and it will have the ultimate effect of increasing the cost of oil and gas for every American.

This is in a letter from the National Black Chamber of Commerce:

The cost of fuel is extremely influential in most levels of our economy and our competitiveness in the global market. Any approach in how we assess royalties is very critical to each and every one of us. Congress should certainly be involved as they truly represent the people, not bureaucrats.

This is from the People for the USA:

The new rule proposed by MMS is far too complex and could lead to the loss of hundreds of thousands of jobs in the energy industry, where so many of our members are employed. . . .

On behalf of the 25,000 members of our grassroots People for the USA campaign, I am respectfully asking you to resist any such efforts to remove this provision.

Mr. President, we are talking about tax policy in this country. If you vote for the amendment before us today, we are saying that the Mineral Management Service can walk away from Congress and the congressional intent and congressional mandate that they report to us about any kind of fees or increases.

If they do this—and if we allow them to do this—we will shut down marginal wells throughout our country, which we have already seen happening because of the low prices. Thousands of people will be out of jobs. We will lose revenue in our States and our Federal Government, hurting the schoolchildren of our States when they are not able to have that income stream that is now steady—\$6 billion worth of steady income stream—which will become shaky from marginal producers because they cannot make ends meet. They are laying off people every day because of the low price of oil.

This is not the time to raise prices. We should not let unelected bureaucrats do it, and we should not jeopardize the energy independence of our country by allowing a bureaucracy to raise taxes when that is the prerogative of Congress.

Thank you. Mr. President, I thank Senator DOMENICI for his leadership, along with the bipartisan group that is trying to make sure we keep jobs and energy independence and gasoline pumps filled throughout our country.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry. How much time does Senator BOXER have and how much time do I have?

The PRESIDING OFFICER. The time remaining for Senator BOXER is 7 minutes 15 seconds. The time remaining for the Senator from New Mexico is 13 minutes 10 seconds.

Mr. DOMENICI. Thank you. Mr. President, I thank Senator BOXER for agreeing to this unanimous consent. I very much appreciate it for some personal reasons.

I ask unanimous consent that when all debate time is consumed, or yielded, that the amendment be set aside until the hour of 5:50; and, at that time, there be 10 minutes for debate for closing remarks prior to the vote on the motion to table the Boxer amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, since I have considerably more time than the distinguished Senator from California, I would like to make a few remarks and then save a few minutes for Senator GORTON, the manager of the bill.

Mr. President, fellow Senators, first of all, there has been a lot of talk about lawsuits that are out there that have been going on for years on end. Essentially, fellow Senators, the reason that a new set of regulations and rules were supposed to be adopted was so we wouldn't have all of that litigation; so that we have a more clear-cut definition of what is market value for oil and gas, rather than leave so much to subjectivity, to arguments and disputes.

Let me suggest, if that is the case, that I can almost promise the U.S. Senate that if the rules that the Minerals Management Service is proposing to adopt are adopted that they will all be back in court over and over again, because they are unintelligible. They leave many opportunities for the Minerals Management Service to second-guess. They leave at times many opportunities to go back in an audit and even undo the market value as determined by a company upon the advice of people from the MMS.

Mr. President, when I was a Senator in the middle of the Iranian-prompted crisis where we had lines—Senator HUTCHISON's statement was that they even shot at each other in New York in one of those lines early in the morning because somebody thought one car was moving ahead of them. You might have been Governor, I say to the occupant of the Chair, when that happened. You may remember that.

During that period of time, a gentleman in my State, who is currently one of the most successful and marvelous businessmen in the retail marketing of oil and gas products in my

State, was down in a little office where his business was beginning. He begged me to come and see him. I went to see him. And a grown man was on the brink of falling apart. Whenever he would talk, he would cry, because the then-U.S. Government Energy Department had been told by Congress to enforce some very vague rules about gouging.

Here comes auditors to that man's office. He can't give them enough. They come back month after month, and his business is floundering. And they want more information. They want to go back further in time. They want him to bring in his customers and let them talk to the enforcing agency about the various arrangements.

I pledged to him right then that, not knowing the facts, I would see that he was treated fairly. He was. He succeeded in getting around that, and is surviving, as I have just indicated, bountifully.

Mr. President, what we don't want to let happen is we don't want a new set of regulations that permit a bureaucracy, however much we must rely on them—the MMS—to go into American energy producers in the manner that I have just described for my good friend down in Artesia, NM.

I contend that is what is going to happen, because, pursuant to congressional requests, some of us, Democrats and Republicans, sat down at the table with the MMS and the industry. And it is absolutely a cinch based upon the disagreements that occurred around that table and the failure on the part of the MMS to consider what many of us thought to be a very reasonable request; that if we let these get adopted, we haven't seen anything yet with reference to tying up this money in litigation and arguments. As a matter of fact, there is even a position in these new rules where the MMS can actually contend that a company would sell below market value to avoid the 12.5-percent royalty. Does that make sense to anyone? When you sell below market and give something away, you are giving away 12.5 percent to the Government, but you are keeping 87.5 percent of your own money. Right? But there is something in here to make sure they don't sell below market. There are so many nuances. I am not sufficiently expert. Again, I think I know when I see something that isn't going to work.

Let me conclude. Industry is not to blame for the current rule. The MMS wrote it. All producers are affected by it—not 5 percent. Under current law, MMS can collect the royalties that are fair market value. Nothing is stopping them. Anybody thinking we are going to stop collecting royalties is mistaken. We are going to keep on collecting them under a set of rules that are very unreasonable and complicated. But why substitute another set that we think is going to do equally as bad and maybe move even more arbitrarily against the producers of energy in this country? There is a con-

cept within it that you are guilty until proven innocent. There is, as I said before, a notion that producers will sell cheaply to avoid a royalty. Why would anybody do that? I just explained that to the Senate.

There is extensive opportunity for second-guessing. The scourge of the regulated is to have regulators second-guess. That is the scourge. You have one answer and you thought you were abiding by it. But they second-guess it and you get audited. And there is another set of rules. These rules are unworkable. One well, 10 different valuation calculations for on-shore oil; one well, 8 different valuation calculations for off-shore.

For whatever has been said here today about who we are working for in opposing the Boxer amendment, actually what I believe is happening is we are saying to a bureaucracy of the U.S. Government that we have had a good view of how you make rules, we think you are doing it in an unreasonable manner, and we would like you to do it better, so we are not going to give you any money to enforce what you have proposed to do.

Essentially, all the arguments have been made about how important gas and oil production is for our Nation. We understand that. But this is not an issue about anybody cheating. It is an issue about whether a new set of rules is better than the old ones when we firmly believe they are not.

I reserve the remainder of my time.

Mrs. BOXER. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from California is recognized for 7 minutes 15 seconds.

Mrs. BOXER. I would like to ask my friend if it is OK if when we come back I close the debate with 5 minutes. Would that be all right with the Senator from New Mexico?

Mr. DOMENICI. We each get 5 minutes.

Mrs. BOXER. Yes. I would like to close. I ask unanimous consent that I get to close the debate.

Mr. DOMENICI. When we do our 5 minutes each.

Mrs. BOXER. Yes.

Mr. DOMENICI. Of course.

Mrs. BOXER. I thank the Senator so much. I just want to say to my friends, Senator DOMENICI and Senator GORTON, again, how much I appreciate their courtesies. This is a very important issue.

Mr. President, I ask if you would advise me when I have 2 minutes remaining.

The PRESIDING OFFICER. The Chair will advise the Senator when she has used all but 2 minutes of her time.

Mrs. BOXER. Mr. President, I have really enjoyed this debate. I was saying to Senator GORTON I thought it was very important to have it because when it was raised in committee, it was a truncated debate. This has given us a chance to really show both sides.

I think another reason I have enjoyed the debate is because it goes to the

heart and soul of why I want to be in the Senate; and that is to look out for real people, the real people who make this country go, who get up every day and go to work and save to get a car and hopefully save to get a condominium or a home and to get the American dream.

I think there is another part of that American dream that sometimes gets overlooked, and that is our heritage; that we have much more as Americans than our personal possessions, important though they are. We own the parks. We own the waters, the coastal waters. And others cannot destroy those because they belong to us.

I think it is important for us to note that we are talking about the most powerful oil companies—5 percent of oil companies, some of which make in the many billions of dollars. And I pointed this out before. For example, Exxon, in 1996, generated \$134 billion in revenue from oil and gas. And the vast majority of the oil companies impacted by this rule are huge. The impact on Exxon, for example, would be one one-hundredth of 1 percent of their revenue.

My friend from Texas says that is going to cause a disaster. Well, the one good thing about royalty payments, as they are owed to the hard-working Americans of this country, because it is, in fact, oil drilled on their land which they own, that we all own as Americans, is that the royalty payments go down with the price of oil. So it is very fair. And here you see, again, the lease that is signed by the oil companies wherein they promise to pay a fixed royalty which is a percentage of the value of the production, and therefore when oil prices are up, the American people get more. It is a rent that is basically paid on a floating basis depending on the market price of oil.

Now, my friend from New Mexico, for whom I have the greatest respect and admiration, says it is very complicated to figure out what is the market price of oil. And as I said before, I was a stockbroker in a former life, and I know that oil prices are posted and listed every day. I would place into the RECORD this publication, "Platts Oil Price Report." If you look at it, you will see every single day, every single market. The market price listed here reflects the price of oil. So when my colleague worries that the Interior Department is off on the wrong track, I would say I agree with the New Mexico Tax Revenue Department which said:

The MMS should be commended for the effort they have made in developing oil valuation regulations that are fair to all interested parties. They should also be commended for recognizing an issue and following through with it to resolution, in an environment where litigation abounds, unfounded criticism is made public and political mechanisms are used to mandate positions.

You cut through that and what they are saying is very clear, that the MMS is, in fact, working hard to come up with a solution to this problem.

Now, I showed before, I think, the most telling chart of all. Mr. President, this is where we are. The oil companies sign a lease with us, the American people, promising to pay rent, in essence, for drilling on Federal lands. It is supposed to be based on market price, and here you see with ARCO in the west Texas market, the market price very clearly shown and the ARCO posted price, which is their, in essence, made-up price.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mrs. BOXER. I thank you, Mr. President. I will take another 30 seconds and withhold. What we are going after is this difference. We think the taxpayers deserve to have the fair royalty payment paid. That is why I raise this issue.

I will reserve the remainder of my time to close this debate.

Mr. DOMENICI. I yield 3 minutes to Senator GORTON and the remaining time to Senator GRAMM of Texas.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. I have been in the Chamber through most of this debate as I am the manager of the bill under discussion now. I believe that I am the only one, at least on this side of the issue, who has no immediate constituent interest in the subject. But I do have certain observations from listening to the debate on the part of others.

The Senator from Oklahoma, Mr. NICKLES, mentioned at one point that the Minerals Management Service had said that this was a revenue-neutral proposal, although in fact it seems not to be that case. The proponents of this amendment emphasize that there is a lot of money involved here for schools and for parks and for other purposes.

It occurs to me that if this is a debate over revenues to the Federal Government, we are in effect talking about a tax, a tax on certain companies engaged in the oil business. And if we are speaking about a tax, it seems to me we ought to be deciding that question here in the Congress of the United States. Under our Constitution, taxes are not levied by regulatory agencies of the Government. They are determined and they are levied by the Congress.

If, in fact, this amendment will produce tens of millions of dollars for various governmental purposes, then it is inevitable that someone is going to pay for those purposes. One of two things is going to happen, it seems to me. And one of my colleagues can correct me if I am wrong. Either it will be reflected in the price of gasoline and other petroleum products that every consumer in the United States pays and will be in effect an increase in the gas tax, or if these companies can simply import more and produce less domestically, it will simply drive American producers out of business because their cost of business will be increased.

But one of those two consequences seems to me to be inevitable. Either

this is going to be a tax on the American people by increasing the cost of their gasoline, or it is going to increase our dependence on foreign oil and drive American producers out of business. I think that conclusion is absolutely inevitable. I think that is a policy decision that should be made by the Congress of the United States and not by an obscure Federal agency, and for that reason I oppose the amendment.

Mr. DOMENICI. Mr. President, I send a letter to the desk and ask unanimous consent it be printed in of the RECORD from the Revenue Department of New Mexico indicating they support the oil moratorium.

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

STATE OF NEW MEXICO,
TAXATION AND REVENUE DEPARTMENT,
Santa Fe, NM, July 20, 1998.

Hon. PETE DOMENICI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOMENICI: Thank you for giving me the opportunity to comment on your appropriation rider placing a moratorium on MMS oil valuation regulations. After careful consideration, we have determined that the moratorium would allow MMS and the industry more time to reach a consensus, therefore we are in favor of the moratorium.

If I can be of further assistance, please contact me.

Sincerely,

JOHN J. CHAVEZ,
Secretary.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. I congratulate my colleagues, especially my dear colleague from New Mexico and my fellow Senator from Texas, for doing an outstanding job. I think anybody who has listened to the debate, and who started the debate with an open mind that was not totally empty, would conclude that you are right and this amendment should be tabled.

My opposition to the amendment is very simple. Congress should make decisions about collecting fees and imposing taxes. Article I, section 8, clause 1 of the Constitution says, "The Congress shall have the power to lay and collect taxes, duties, imposts and excises."

We should not be granting our constitutional powers to faceless bureaucrats who have agendas that may not reflect the will of the American people. If our colleagues wanted to mandate by law that we raise royalty fees, that would be one thing. But to simply set a process in place where bureaucrats are going to effectively raise taxes, I think, is fundamentally wrong. So I want to urge my colleagues to reject this amendment, and I want to especially congratulate those who I believe have made an excellent case in opposition to the amendment.

I reserve the remainder of my time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. There is little time remaining. I just want to say again what

the USA Today editorial said, because I think it sums it up beautifully and it doesn't come up with the same conclusion that the Senator from Texas, Mr. GRAMM, comes up with. It comes up with another conclusion, and that is, "Industry's effort to avoid paying full fees hurts taxpayers and others."

Since 1920 when Congress passed the Mineral Leasing Act, the MMS has been acting to set the rules that guide the payments of royalties. So, now, all of a sudden we have a move to say this is wrong. I think it is kind of interesting, all of a sudden it is wrong, something that has been in place since 1920. This is what the MMS is supposed to do. So I think this editorial really says it.

Imagine being able to compute your own rent payments and grocery bills, giving yourself a 3 percent to 10 percent discount off the market price. Over time, that would add up to really big bucks. And imagine having the political clout to make sure that nothing threatened to change that cozy arrangement.

And they basically say, "Taxpayers have been getting the unfair end of this deal for far too long."

Mr. President, I say to Senators, we have an opportunity to end this cozy deal today. I know some of my colleagues feel they need more time, they want to work on a more fair way to collect these royalties. I cannot imagine, as someone who knows supply and demand—I am an economics major, I was a stockbroker—it is pretty simple. You have the market price. Pay the royalty based on the market price. This is a capitalistic system. We do not have industry executives sitting in and deciding what the market price is in the dead of night in the back of their corporate headquarters. These 5 percent of oil companies, the oil giants, are the ones who are getting away with thievery. Let's end it now. Support this amendment.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, has all time now been used on this amendment?

The PRESIDING OFFICER. All but 8 seconds.

Mr. GORTON. We yield back that 8 seconds.

What now is the order before the Senate?

The PRESIDING OFFICER. The amendment is set aside until 5:50, at which time there will be 10 minutes equally divided between the parties for debate.

AMENDMENT NO. 3581

Mr. GORTON. Then what is the matter before the Senate at this point?

The PRESIDING OFFICER. The matter before the Senate at this time is the Daschle amendment to S. 2237.

Mr. DASCHLE addressed the Chair.

QUORUM CALL

Mr. GORTON. Mr. President, 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.

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

Mr. GORTON. Objection.

The PRESIDING OFFICER (Mr. THOMAS). Objection is heard.

The assistant legislative clerk continued to call the roll.

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

Mr. DORGAN. Mr. President, I object.

The PRESIDING OFFICER (Mr. SANTORUM). Objection is heard.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3]

Allard	Frist	Leahy
Ashcroft	Gorton	Lott
Baucus	Gramm	Lugar
Bond	Gregg	McCain
Boxer	Hagel	McConnell
Burns	Harkin	Mikulski
Conrad	Hutchinson	Murkowski
Craig	Inhofe	Reed
Daschle	Jeffords	Roberts
Domenici	Kempthorne	Santorum
Dorgan	Kennedy	Smith (OR)
Faircloth	Kyl	Warner

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. LOTT. Mr. President, I move to instruct the Sergeant at Arms to request the attendance of absent Senators.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Alabama (Mr. SESSIONS), and the Senator from Alabama (Mr. SHELBY) are necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas (Mr. BUMPERS) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—94

Abraham	Bond	Cleland
Akaka	Boxer	Coats
Allard	Brownback	Cochran
Ashcroft	Bryan	Collins
Baucus	Burns	Conrad
Bennett	Byrd	Coverdell
Biden	Campbell	Craig
Bingaman	Chafee	D'Amato

Daschle	Inhofe	Murray
DeWine	Inouye	Nickles
Dodd	Jeffords	Reed
Domenici	Johnson	Reid
Dorgan	Kempthorne	Robb
Durbin	Kennedy	Roberts
Enzi	Kerrey	Rockefeller
Faircloth	Kerry	Roth
Feingold	Kohl	Santorum
Feinstein	Kyl	Sarbanes
Ford	Landrieu	Smith (NH)
Frist	Lautenberg	Smith (OR)
Glenn	Leahy	Snowe
Gorton	Levin	Specter
Graham	Lieberman	Stevens
Gramm	Lott	Thomas
Grams	Lugar	Thompson
Grassley	Mack	Thurmond
Gregg	McCain	Torricelli
Hagel	McConnell	Warner
Harkin	Mikulski	Wellstone
Hatch	Moseley-Braun	Wyden
Hutchinson	Moynihan	
Hutchison	Murkowski	

NAYS—1

Breaux

NOT VOTING—5

Bumpers	Hollings	Shelby
Helms	Sessions	

The motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The majority leader.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, the Senate has been on this Interior bill now for 6 session days and has not really scratched the surface of the bill. This is the 11th appropriations bill that the Senate has considered in preparation for the end of the fiscal year, which is September 30.

Members will recall last week we spent most of our time on the campaign finance reform issue. This week there have been farm amendments as well as other amendments that are unrelated to Interior that are waiting in the wings. It looks like it will be very hard to keep focused on the Interior appropriations bill itself and get it completed. And, of course, that will affect the next two appropriations bills.

AMENDMENT NO. 3581

I offered a consent agreement to debate the pending amendment for 2 hours. That is the amendment that Senator DASCHLE offered, with no action occurring, and then lay aside the amendment to consider a Kempthorne amendment relative to the Endangered Species Act. I understand some discussions are still going back and forth on the ESA amendment. That agreement has not been worked out and there are various reasons that it has been objected to.

Therefore, I ask for the yeas and nays on the pending amendment, 3581.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.