with the Russians after his reelection when he would—as he put it—have some flexibility in negotiating with them. Perhaps the Russians in whom the President confided could shed some light on missile defense plans. Then perhaps the President should shed that light on these negotiations with the American people before discussing them with the Russians.

I yield the floor.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

## FACING THE ISSUES

Mr. McCONNELL. Mr. President, as Americans filled up their cars with gas this weekend, I am sure a lot of them wondered how much higher gas prices could actually go. Well, today the Democratic-controlled Senate plans to send these folks a message: If they had their way, gas prices would be even higher.

Today Democrats will propose raising taxes on America's energy manufacturers, something common sense and basic economics tell us will lead to even higher prices at the pump. This is the Democratic response to high gas prices, and, frankly, I cannot think of a better way to illustrate how completely and totally out of touch they are on this issue. That is why Republicans plan to support moving forward on a debate over the legislation because it is a debate the country deserves.

We are going to use this opportunity to explain how out of touch Democrats are on high gas prices and put a spotlight on the commonsense ideas Republicans have been urging for years—ideas that reflect our genuine commitment to the kind of ''all of the above'' approach the President claims to support but actually doesn't.

Look, this isn't terribly complicated. Americans from Maine to California are frustrated at high gas prices. What do they see in Washington? They see Democrats pushing legislation that even they admit doesn't have a thing to do with lowering gas prices. At least seven Democrats are on record saying this bill doesn't do a thing to lower gas prices. Last year its own sponsor said nobody has made the claim this is about reducing gas prices—all of which raises an obvious question: What are we doing it for? How does this help the American people now?

Of course it doesn't. In response to record-high gas prices, Democrats in Congress want to raise taxes on the very people who produce it. Meanwhile the President is blocking a pipeline that would decrease our dependence on Middle East oil and create literally thousands of American jobs.

Americans see the Democratic response to high gas prices to make them even worse. That is the Democrats' response to high gas prices, to make them even worse. They are starting to wonder if this might as well be the Democrats' official slogan: Vote for us, and we will make things worse. Because whether it is jobs or debt or spending or gas prices, that is the Democratic record, which leads me to health care.

Today, as we all know, the Supreme Court began hearing arguments on the President's health care law. Among other things, the Court will consider whether the mandate at the core of this law is constitutional. As one of the many public officials who filed a brief before the Court opposing this law, I believe strongly the law is, in fact, unconstitutional, and I hope the Court agrees.

Even if the Court ends up disagreeing with me, the case for repeal becomes increasingly difficult to refute. The President was right to seek reform, but the bill he gave us and the Democrats forced through Congress on a party-line vote is not working. Instead of lowering costs, it is increasing them. Instead of strengthening Medicare, it raided Medicare. Instead of helping States, it has created financial burdens they cannot even bear. Instead of lowering insurance premiums, it has caused them actually to go up.

When it comes to jobs, some have called the law the single biggest detriment to job creation in America right now, and most Americans believe it is unconstitutional. This law is a mess, an absolute mess, and regardless of what the Court decides, it needs to be repealed and replaced with commonsense reforms that actually lower costs and that Americans really want.

So we will keep one eye on the Supreme Court this week, and we are basing our opinion on something simpler than the legal arguments we will hear this week. We are looking at whether this law helped or hurt. On that question the verdict is already in, just like so much else this President has done over the past few years.

Look, we need health care reform, but this law has made things worse. On that basis alone it should be repealed and replaced. That is what Americans want, and that is what we plan to do.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

## OIL MARKET SPECULATION

Mr. LEVIN. Mr. President, once again, oil prices have spiked to high levels threatening our economic recovery. Prices are now nearing $110 a barrel, up nearly 30 percent since October 2011, only 5 months ago. For years now the commodity markets have taken the American people on an expensive and damaging roller coaster ride with rapidly changing prices for crude oil.

In 2007, a barrel of crude oil started out costing $50 a barrel. By the end of the year, the price had nearly doubled. In 2008, oil prices shot up in July to nearly $150 a barrel, and then by the end of the year crashed to $35. In the beginning of 2011, oil prices took off again, climbing to over $110 per barrel in May. Then they began falling. In October oil traded at $75 per barrel, a drop of more than 30 percent over 4 months.

Now 5 months later oil prices are back up to nearly $110 a barrel. This unpredictable and incessant price volatility is burdening American consumers and businesses with both uncertainty and expense.

Some in the media are blaming recent events in the Middle East for the latest oil price spikes, but Middle East instability cannot explain these large gyrations. We have seen uncertainty, unrest, and armed conflict in that region for more than 50 years without seeing this same pattern of extreme price volatility in oil prices. That volatility has become a feature of U.S. oil markets over the last 7 years.

There is something else at work behind the spikes and sudden drops in the price of oil and other commodities in recent years, and we have strong evidence showing what it is. It is the increasing role of market speculators betting on price swings.

For years now the Permanent Subcommittee on Investigations, which I chair, has been digging into the problem of excessive speculation in the commodity markets. Since 2002, the subcommittee has conducted a series of investigations into commodities pricing, in particular focusing on how speculators have changed the game. Our investigations have used specific case histories involving oil, natural gas, and wheat prices to show how excessive speculation in the futures and swaps markets have distorted prices, overwhelmed normal supply-and-demand factors, and pushed up prices at the expense of consumers and American businesses.

For example, in 2006 the subcommittee released a report that found that billions of dollars of commodity index trading by speculators in the crude oil market had helped push up futures prices in 2006, causing a corresponding increase in cash prices and was responsible for an estimated $20 out of the then $70 cost for a barrel of oil. Since then even more speculators have entered the commodities markets. Today we have commodity index traders, exchange-traded products, even mutual funds betting billions of dollars on crude oil prices on a daily basis.

Speculators have now come to dominate our futures and swaps markets, overwhelming the commercial users and producers who use and need these markets to set fair prices and hedge risks.

At a November hearing before my subcommittee, the Chairman of the Commodity Futures Trading Commission, Gary Gensler, testified that over 80 percent of the outstanding futures contracts for crude oil are now held by speculators. That fact is new, it is significant, and we cannot ignore it.

It used to be that prices were determined primarily by fundamental market forces of supply and demand for physical commodities. When commodities were tight and demand high, prices generally went up. In contrast, when supplies were ample and demand low, prices generally went down. Nowadays that relationship is largely absent.

Here are some startling facts from recent press and government reports that show how U.S. crude oil prices today have become disconnected to supply and demand. First is the fact that the United States has ample oil supplies in the neighborhood of 350 million barrels in storage, which is toward the higher range since 2008. World supplies are also adequate with the Saudi Arabian oil minister recently stating that world supplies are stronger today than they were 4 years ago in 2008.

In addition, the United States is producing more domestic oil than it has in years. In 2010, U.S. domestic crude oil production increased to 5.5 million barrels per day, up from 5.1 million barrels in 2007, and is still climbing. In 2011, overall U.S. refining capacity also increased. Perhaps most surprising of all in 2011, for the first time since 1949, the United States exported more gasoline, diesel, and other petroleum products than it imported. The United States is projected to do the same in 2012 and 2013. At the same time U.S. oil supplies stayed steady and production increased, U.S. demand went down. In 2011, U.S. fuel consumption actually sank and oil demand in North America contracted by 0.5 percent. Some of that drop was due to lower economic activity, some to greater energy efficiencies, and some to higher energy costs.

For example, U.S. demand for gasoline sank nearly 3 percent last year. More broadly, in 2011, total U.S. demand for all types of oil products fell to 18.8 million barrels a day, from 20.8 million barrels a day in 2005. That is a drop of 10 percent. The end result is that over the last year oil demand was down and supply was up in the United States. Under normal economic conditions, both factors should have led to lower oil prices. Instead, despite steady or improving oil supplies and steady or dropping demand, U.S. crude oil prices became more like a roller coaster than ever.

What explains the price volatility and escalation? The answer is pretty clear to me after 10 years of investigations by our subcommittee: It is the large amount of speculation in oil markets which is a major contributing factor to high prices. Speculators who now comprise more than 80 percent of the U.S. futures oil market are bidding on contracts, speculating on price swings, and helping to drive up price volatility and crude oil prices. Higher crude oil prices translate directly into higher gasoline prices. According to a February 27, 2012 article in Forbes magazine citing a recent report by Goldman Sachs, oil speculation ''translates out into a premium for gasoline at the pump of 56 cents a gallon.'' In other words, speculation is adding 56 cents to the price of each gallon of gas bought at the pump.

Here is a Reuters chart that uses CFTC data. It focuses on the crude oil holdings of speculators, the group of traders that the CFTC refers to as ''managed money'' and which includes commodity index funds, hedge funds, commodity pool operators, and commodity trading advisers. The chart uses CFTC data to track the ratio of their long to short crude oil futures holdings over time. Last month, there was a spike, way over here to the right. Speculators held more longs than shorts by a 12-to-1 ratio, the largest recorded difference in 5 years. That same week, U.S. crude prices hit a 9-month high of $110. And it is no surprise that when more than 80 percent of the market suddenly bets 12 to 1 on prices going up, oil prices do just this.

As we can see from this chart, these spikes occurred in the last year or two. Before that, we did not have the spikes. Before this, there was this huge amount of speculation in the oil futures market and we did not have these large spikes which we have had in the last few years.

The reality is that oil prices again are not just affected by physical supply and demand but by speculative pressures on prices. That means if we are to get a handle on oil prices, excessive speculation must be curbed. There is a lot we can do to combat excessive speculation, and I will spell out some of these steps.

Congress has already taken the first steps. In July 2010, Congress enacted the Dodd-Frank Act which, in Section 737, directed the CFTC to establish speculative position limits on energy and other previously exempted commodities, and broadened CFTC authority to apply those limits to all types of commodity-related instruments, including futures, options, and swaps. The Dodd-Frank Act also required all large commodity traders to begin reporting their trades in real time to a central repository, increasing transparency, producing new detailed trading data, and strengthening regulatory oversight.

In November 2011, in compliance with the Dodd-Frank requirements, the CFTC issued a new position limits rule. The rule sets limits that are not as tough as they should be, but the real problem is that they are not yet fully in force. That means this important new tool to clamp down on excessive speculation lies dormant.

One big roadblock is that, within a month of the rule's issuance, the financial industry filed a lawsuit to stop it from taking effect. The lawsuit claims Dodd-Frank didn't require the CFTC to impose position limits, although those of us in the Senate who fought for the law know position limits were made mandatory by Dodd-Frank and were regarded as vital to curbing excessive speculation. The court is considering the case now and hopefully will not allow the lawsuit to delay or thwart the legal protections needed to stop American families and businesses from being whipsawed by excessive speculation in oil and other commodities.

In the meantime, what should Congress do? First, we should stop pretending that $110 per barrel of oil is caused solely by Mideast unrest or physical supply and demand factors, and acknowledge a major contributing role played by speculators in crude oil prices. Second, we ought to urge the CFTC to find that current U.S. oil prices, which do not reflect physical supply and demand factors, are evidence of a severe market disturbance. That finding would allow the CFTC to exercise its emergency authority, without waiting any longer, to clamp down on excessive speculation in the oil markets. Among other options, the CFTC could tighten position limits for oil traders, make those limits immediately effective in the futures, options, and swap markets, strengthen margin requirements, and take other actions needed to bring oil prices back into alignment with supply and demand.

Third, on a longer term basis, we should revamp the rules that enable commodity index traders, exchange traded products, and mutual funds to flood U.S. commodity markets with speculative bets on commodities to the detriment of American families and businesses. Legislation is needed to require the SEC and CFTC to impose joint registration and reporting obligations for traders that use securities to gain exposure in commodities, joint regulation of hybrid products that combine securities and commodities trading, and increased margin and capital requirements for risky speculative bets. The Internal Revenue Service needs to stop allowing mutual funds to use phony offshore corporations to circumvent a longstanding 10 percent limit on their commodity investments. Additional restrictions on commodity index trading should also be considered, since it is the largest root cause of modern day excessive speculation.

Finally, we should ask more of the President's task force on commodity speculation. In March 2011, a year ago, Senator JACK REED and I sent a letter asking President Obama to convene a task force to investigate and combat excessive speculation and manipulation of oil prices. While the Attorney General did convene a task force, it has concentrated principally on detecting a few cases of alleged criminal activity, instead of tackling the broader issue of excessive speculation cases in which no one is committing a crime, but aggregate commodity trading tactics are driving up prices and price volatility to the point where they damage the U.S.

economy. The task force needs to urgently refocus and bring its firepower to the battle to stop excessive speculation.

In closing, until we limit excessive speculation in commodity markets, the American economy will continue to be vulnerable to violent price swings and American consumers and businesses will continue to be whipsawed by oil prices unconnected to actual supply and demand. American families cannot afford the current price of oil and gas and neither can our economy, which, after 4 years, is beginning to turn a corner toward real growth. Today's prices—$110 for a barrel of oil and $4 for a gallon of gasoline—are a clarion call to action that Congress and the CFTC ignore at the Nation's peril.

Mr. President, I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

## HEALTH CARE

Mr. COATS. Mr. President, this past Friday marked the 2-year anniversary of when the president's health care law, the affordable care act, otherwise known as ObamaCare, was signed in to law. I wasn't in the Senate at the time; I was actually in the State of Indiana campaigning to be in the Senate as a representative of that State. As such, I had spent a considerable amount of time crisscrossing the State and talking to Hoosiers about the health care plan. From diners and restaurants all across Indiana to small businesses, large businesses, medium-size businesses, big industrial giants, small mom-and-pop operations, medical providers, and ordinary citizens, we in Indiana join the nearly two-thirds—or perhaps even more than two-thirds—of the country that oppose this law.

Hoosiers didn't then, and they don't now, want to have a one-size-fits-all nationalized health care system. They want a healthier health care system. They want reforms to the current problems and excessive rising costs of health care. This is the first of many attempts I will make to discuss why we need to address this law, which is moving toward ever and ever greater implementation and particularly kicks in over the next two years. Hoosiers, as I said, did not want the plan then and they don't want it now. They don't want to have Federal bureaucrats making their health care decisions for them. They want less government intervention and higher quality of care, and they don't want a health care system that increases costs and premiums while hurting job creators with fines and penalties. They want affordable care and good job opportunities.

Two years after passage of that act, I continue to hear these messages from the people of Indiana and from others as we discover more and more information about what is contained in this massive 2,700-page bill that was passed in early 2010. I wish to discuss a few of the impacts of the ObamaCare law today. The first is the individual mandate, and of course that is one of the issues the Supreme Court is hearing right now and will be making a determination on.

ObamaCare is the biggest example of government intrusion in the everyday lives of Americans, whether by forcing individuals to buy health insurance, enacting onerous regulations on small businesses, or by raising taxes and imposing penalties. The health care law forces every American to purchase a health insurance plan or, if they choose not to do so, to pay the government a fine. This is unprecedented in American history. It is the first time the Federal Government is forcing citizens to purchase a product or a service they may or may not want or pay a fine for their decision to say no.

This administration basically is saying to Americans: We know what is better for you than you know for yourself. We know what is better for you than what your doctor suggests is needed, and if you don't get a government-approved health care plan, we are going to assess you a fine.

That is a basic, fundamental principle of constitutional law and the Supreme Court will be making that determination. But I suggest that this Congress needs to continue to debate this and be prepared to act depending on what the Supreme Court decision is, which will come down several months from now.

The second thing I wish to talk about briefly is the higher costs that emanate from this particular piece of legislation. In addition to mandating that all Americans have health insurance, ObamaCare hits individuals and families with increased costs at higher premiums. The Nation's nonpartisan budget experts at the Congressional Budget Office estimate that when fully implemented, this law will increase insurance premiums on a family policy by an average of $2,100 a year. Therefore, the affordable care act is hardly affordable and increases the already high premiums people have to pay for insurance.

The President's own Chief Actuary at the Center for Medicare Services reported that the law will increase national health care costs by $311 billion in the first 10 years alone—increase is the key word here. The goal of reforming the Nation's health care system initially was to reduce the skyrocketing costs for Americans, not increase them. Yet, we are now being told by the experts and the President's own people that Obamacare will increase costs.

I also wish to speak about the impact of this law on businesses. I talked to dozens if not hundreds of businesses across the State of Indiana, both in the campaign year of 2010 and then last year traveling as a Senator throughout the State. The President's health care prescription results in bad side effects for American businesses by hitting job creators with new taxes and new regulations that they desperately don't need at this point in our struggle to regain economic growth. Take the employer mandate. The law penalizes businesses that do not provide employees with government-approved health care plans. Beginning in 2014, American businesses with more than 50 employees will be fined $2,000 per employee if they do not offer a health insurance plan approved by the Federal Government.

I have talked to a number of business people who have gone through painful negotiations with their workers and with their laborers and with staff. They have put together a health care plan that is accepted by both management and by employees who recognize that if they cannot maintain some semblance of control over costs, the jobs might not be available in the future because the company cannot afford to keep people at work. So in recognition of all of this negotiation that goes on and the contractual obligations that both sides work to achieve, understanding that if the business is hit with too much tax and too many regulations the business may not survive, those plans now come under the scrutiny of the Federal Government, and the Federal Government will determine whether those plans are sufficient and adequate. If it determines they are not, then a fine is levied against the business.

I cannot tell my colleagues how many business people told me: Look, I would rather pay the fine than have the government impose all of these new regulations on us when we are working carefully with each employee to make sure they have their basic insurance needs covered. Yet, if we are forced into a set plan of set procedures for every employee, then I have two choices, the business people say: I can either refuse to do so and pay the penalty of about $2,000 per employee, or I can let people go. The bottom line is, if I can't make my bottom line, I cannot keep these people employed.

The arbitrarily fixed basis that small businesses under 50 employees will not be subject to this leaves manufacturers and business people who are slightly below that level—say at 45 or 40 or 35—a dilemma as they are seeking to expand their business. "As soon as I hire No. 50, then my business is no longer exempt. So what do I do? I freeze out hiring more people and look to double up people's salaries or put people on overtime." At a time when we have over 12 million people looking for a job and millions of people underworked or working two and three part-time jobs to make ends meet, we are imposing this law on them. It could not have come at a worse time.

Then there is a medical device tax and several other taxes that are included in this bill that we continue to find as we read the fine print.

Indiana is a State that is home to a lot of medical device manufacturers. In