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Senate

The Senate met at 3:15 p.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, whose steadfast love never ceases, your mercies are new every morning, and we wait quietly for Your salvation.

Give our Senators, this day, a godly excellence that seeks to serve with humility. Help them to be willing to go the extra mile and to be inconvenienced for the sake of others. May they seek ways to serve instead of waiting to be served, as they follow Your example of humble service. Let Your unconditional, unalterable, and unending love lead them to respect, honor, and unity. You are a great God to meet our needs. We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 9, 2008

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN,

a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARDIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ASSISTANT MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant majority leader is recognized.

SCHEDULE

Mr. DURBIN. Mr. President, following my remarks and the remarks of Senator MCCONNELL, if he chooses to make any, the Senate will resume consideration of the motion to proceed to S. 3044, the Consumer-First Energy Act. As previously announced, there will be no rollcall votes today. Senators should be prepared to vote on the motion to invoke cloture on the motion to proceed to S. 3044 tomorrow prior to the caucus luncheons.

MEASURES PLACED ON CALENDAR—S. 3098 and S. 3101

Mr. DURBIN. Mr. President, I understand there are two bills at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will state the bills by title for the second time.

The legislative clerk read as follows:

A bill (S. 3098) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

A bill (S. 3101) to amend Title XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes.

Mr. DURBIN. Mr. President, I object to any further proceedings with respect to these bills en bloc.

The ACTING PRESIDENT pro tempore. Objection is heard. The bills will be placed on the calendar.

LAST FRIDAY

Mr. DURBIN. Mr. President, last Friday, five startling things happened to our economy.

The futures price for a barrel of crude oil rose above \$139, an alltime record. It increased over \$10 in 1 day, and the increase in price on Thursday and Friday was the largest 2-day increase in the 130-year history of the New York Mercantile Exchange.

That morning, a Morgan Stanley analyst had released a report predicting that the price of a barrel of oil could reach \$150 by the Fourth of July.

Also that morning, the worst job report and worst unemployment report in 12 years was released. The national unemployment rate has now reached 5.5 percent.

By the end of the day, in reaction to this news, the Dow Jones Industrial Average was down 394 points.

The average price for a gallon of gasoline at the pump on Friday, nationally, hovered around the alltime record of \$3.99 a gallon.

Are these five events related? Of course they are. There are many other economic events that took place last week that were also very important and related.

Here is the more difficult question: Did any of these events cause others to occur?

Most importantly, what led to that record increase in the price of oil, which will no doubt lead to crushing increases in the price of gasoline in the days to come?

The honest truth is nobody knows. Not the Commodity Futures Trading Commission, the regulator that is supposed to be monitoring the futures market. The CFTC Commissioners recently argued before the Appropriations Subcommittee that I chair that

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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all the increase in the price of oil can be explained solely by the fundamentals of supply and demand.

Was there an explosion on Friday in an oilfield that disrupted a huge portion of the world's oil supply that we all missed? No. I don't see how a \$10 increase in 1 day can be explained solely by increases in demand relative to supply.

Not the Energy Information Administration, the official U.S. Government source for energy statistics. The EIA doesn't receive detailed information on who's trading what and why.

Was there a massive runup in gas on Friday by nervous motorists all across America? Since the EIA doesn't collect demand information from the gas pumps, I don't see how they could judge whether supply and demand explains the current futures prices.

Not the Federal Energy Regulatory Commission, the regulator responsible for the transmission of energy between States. FERC focuses mostly on the physical delivery side of the energy markets and doesn't analyze the futures markets.

Not the Federal Trade Commission, the regulator responsible for looking out for the interests of consumers and assaulting monopolies. The FTC can investigate the effects of consolidation in the oil industry and can help prevent price gouging at the pump, but they don't look at the nuances of futures market trading.

And I admit not this Senator either. I don't pretend to have all the answers as to why gas prices keep rising, but I certainly see a problem that needs to be addressed; it is a problem I see in Illinois and all across this country.

This issue is much too important to the American people to allow this to continue. Enough is enough. It is time for Washington and leaders across America to respond. We need to get to the bottom of this. There are far too many questions to which no one seems to have definitive answers—questions such as:

Are speculators driving up the price of oil far beyond what can be justified by supply and demand?

Are investors simply fleeing the stock markets because of the slowing economy and flooding the futures market with excess cash?

Are new investment vehicles, such as commodity index funds, driving up futures prices?

Are investment bank analysts issuing reports predicting huge increases in oil prices, in part, because those same banks will profit from that event?

Are large institutional investors taking huge positions in over-the-counter trades that are pushing market prices higher?

Are regulatory differences between the CFTC, which oversees American trading, and the Financial Services Authority, which oversees British trading, allowing traders to hide manipulative crude oil positions from the CFTC?

Are the big integrated oil companies using the rising price of oil futures to justify even larger increases in the price of gas at the pump?

If we had the answers to these and many other questions, we would have a better understanding of what is happening. We would better understand the policy steps to take next, and we would understand how to ensure that a crisis such as this doesn't continue or occur in the future.

It is time to give the CFTC the resources it needs to collect and analyze all the relevant data, so it can understand what is causing these huge price spikes.

It is time to give the CFTC—the regulatory agency involved—more workers, analysts, more cops on the beat to investigate every last detail of what is happening.

Look at this chart. By 2009, the CFTC will be asked to oversee around 980 million futures transactions of ever-increasing complexity. From the year 2000, where there were 145 million of these transactions, we now project that by the end of next year, that number will be 980. That is about six to seven times the number of transactions that occurred just a few years ago.

So at this Commission that regulates that industry and makes sure people aren't misusing it, how many cops on the beat have we had? In 2000, we had 546. Today, under the President's budget, it is 475. The number of transactions this agency is following to make sure they are not deceiving the public and that there is pure transparency increased by sevenfold, and the number of inspectors has gone down in that same period of time.

In Friday's Washington Post, the Chairman of CFTC, Walter Lukken, said:

We can hire an extra 100 people and put them to work tomorrow given the inflow of trading volume. We are doing the best we can in difficult circumstances. . . . This is something that we are obviously concerned with—the potential for manipulation.

It is time to pay attention to Chairman Lukken's comments. More important, it is time to ensure that extra resources are applied.

It is time to require the Commodity Futures Trading Commission to receive data on all trades of all sizes by all participants in the oil futures market that impact deliveries in the United States.

The CFTC then should be required to analyze that entire bed of data and report to Congress on the fundamental reasons behind the oil-price spike.

The American economy is clearly struggling. The cost of a tank of gasoline is an onerous burden to families, businesses, truckers, and farmers. Yet that price continues to rise. Enough is enough. It is time for us to give the resources to this agency so they will have the cops on the beat to make sure they are honest, open transactions, which we can monitor to make certain wild speculation doesn't drive our economy down even further. We have

the power within Congress to do it. If the President will not take the leadership on this issue, leadership must begin right here on the floor of the Senate.

As chairman of the subcommittee for the Commodity Futures Trading Commissions appropriation, I can assure you the resources that are needed for this agency will be the highest priority as we determine the appropriations bill that will be debated in the weeks to come.

It is time to figure out what is driving oil prices through the roof and bring them under control so our economy can continue to grow.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

CONSUMER-FIRST ENERGY ACT OF 2008—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3044, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to S. 3044, to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

FILLING THE TREE

Mr. SPECTER. Mr. President, I have sought recognition to comment about a practice that is being employed on a widespread basis, which I believe undercuts the fundamental institutional integrity of the Senate. I am referring now to a procedure known as filling the tree. That is an expression used inside the beltway—inside the Senate Chamber—for action taken by the majority leader to establish a procedural situation where no Senator can offer any other amendment.

The long tradition of the Senate has been it is an institution that encourages, harbors, fosters open debate, the presentation of issues, the discussion of matters, to bring not only in this limited Chamber, or beyond on C-SPAN2, if anybody is watching, but to the entire country.

That is what distinguished the Senate from the House of Representatives, for example. In the House, they have what is called a rule, and Members may offer amendments only in a very limited, circumscribed way and then in a limited period of time. But under Senate rules, any Senator may offer virtually any amendment virtually at almost any time on any subject and speak in an unlimited way, as long as he retains the floor.

Last week, the Senate took up legislation of great importance on global