

So I would urge all my colleagues to sign on to say that they will oppose secret holds and to release those holds on the nominees who are being held up and let's let the work of the people in this country get done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. UDALL of Colorado. Mr. President, I also rise to express my appreciation to the Senator from Missouri, Mrs. McCASKILL, for her leadership on this effort to reform the way the Senate advises and consents. Because I have great respect for the traditions of the Senate, I was curious as to why holds are a mechanism or a tool available to individual Senators. What I found out is basically speculative; that is, that in the past, there is a belief that Senators—because they could only get back to Washington by horse and buggy or by horse itself—needed time to study a potential nominee. It was a courtesy. It maybe made sense in those horse-and-buggy times, but these are modern times, and the secret hold now, in particular, is being used to accomplish, in many cases, political or perhaps even policy goals. I have great respect for the venerable traditions of the Senate, but this seems like one that should be set aside, frankly.

I was also curious to study some of the statistics that I will share with the entire Senate. Since President Obama took office—I think it is 16 months, give or take a few days—we have voted on 49 nominations. Of those 49 votes, 36 of them—which is about 75 percent of the nominations—have been delayed. On average, these nominations languish or sit on the Executive Calendar for over 105 days. That is on average. Some have waited many months more. Then, when we look at the vote totals of the nominations that finally come to the floor, 17 received more than 90 votes, 10 received more than 80 votes, and 6 received more than 70 votes. So out of the 36 nominees, there were 33 that I think you could characterize as being approved overwhelmingly by the Senate, after a very long and unfortunate wait.

Right now, on the Executive Calendar, there are 94 nominees awaiting the Senate's advice and consent action. At this time in George W. Bush's Presidency, there were 12 nominees. So we have 94 on the one hand and 12 on the other hand.

It is time for my colleagues on the other side of the aisle to stop abusing the Senate's responsibility to provide advice and consent for the President's well-qualified nominees.

Let me just end on this note. If a Senator wants to place a hold, that is all well and good, but it shouldn't be a secret hold. As the previous two speakers have said—and I think Senator McCASKILL as well—I have never used a hold. If I wish to put a hold on a nominee, I will make it public. I will make the case and take a stand on the floor of the Senate. That is the way we want

our debates to be in the Senate—the world's greatest deliberative body. We shouldn't be doing things such as this in secret.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, I listened to the Senator from Colorado, and I was thinking about our two States. They both are beautiful States. OK, they have a few more mountains than we do, but we have 10,000 lakes. We both have open democracies—governments that work, governments that are open. There is no secrecy in our States. We have blue skies, open prairies, open lands. To me, it is no surprise that we would have Senators from these two States standing and saying this is ridiculous.

I thought Senator UDALL did a great job of going through all the numbers and the nominations that have been put on hold, but we all know what is at the root of this. It is a procedural game that allows this to happen—the secret hold.

When I came to the Senate in 2007, my first priority was ethics reform. I was so pleased, and I thought we had gotten rid of the secret hold. That is what we said we did. The rule we adopted then—as soon as unanimous consent was made regarding a specific nominee—said that a Senator placing a hold has to submit to the majority leader a written note of intent that includes the reason for their objection. So they have to put in writing why they are objecting. Then it says that no later than 6 days after the submission, the hold is to be printed in the CONGRESSIONAL RECORD for everyone to see.

So we thought this was a pretty good idea—sunshine being the best disinfectant. By making the hold public and forcing Senators to be accountable for their actions, we could have open debate. As I heard Senator SHAHEEN just say, we should be able to tell the world why we are putting on a hold. We may have a good idea.

But that is not what has been happening. Instead, what has been happening is, Senators are playing games with the rules. They are following the letter but not the spirit of the reform. It is unbelievable to me. They are actually rotating holds.

It is sort of like what we see in the Olympics, where they have a relay and they hand off the baton. This baton is going from one Senator to another so they can keep the hold going. One Senator has it for 6 days. Then it is passed off to another for 6 days. So I guess if delay was an Olympic sport, they would get the Gold Medal.

What we have is a group of Senators from the other side of the aisle, for the most part, who are gaming the system. We have been spending a lot of time in the last few days talking about other people who game the system—people on Wall Street—so I don't think it should be happening in this very Chamber.

I am very pleased Senator McCASKILL, along with Senators GRASSLEY and WYDEN, have been working on this for so long and have taken a lead on it. I urge my colleagues to sign this letter to end the secret hold. There shouldn't be secrets from the public when it comes to nominations. This isn't a matter of top-secret national security or some strategy that we would use when we go to war. This is about nominations from the White House. This is about people who are going to be serving in public jobs. We should know who is holding them up, who doesn't want them to come up for a vote and why. Then we can make a decision and the public will have the knowledge of what is going on in this place. That is the only way we are going to be able to build trust again with this democracy.

I yield the floor, and 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. BENNETT. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

#### FINANCIAL SERVICES INDUSTRY REGULATION

Mr. BENNETT. Mr. President, I rise to discuss the issue that is before the body and before the country right now with respect to control and regulation of the financial services industry. The President of the United States has given a number of speeches on this one. I understand the latest one was today, in which he attacked Republicans for listening to the big banks of Wall Street in our concern about the details of the bill that has been offered out of the Banking Committee by Chairman DODD.

I am a member of the Banking Committee. I voted against the bill in the Banking Committee. It came out on a straight party-line vote. For that I am being castigated by the President and others for being a tool of Wall Street and the big banks.

I want to make it very clear that my opposition to parts of this bill have nothing whatsoever to do with Wall Street and the big banks. I have not been to Wall Street to discuss this with any executives of any of the big banks. I have been in Utah, and I have been discussing this with businesses in Utah, businesses that you normally would not think would have any interest whatsoever in regulation of financial services.

We think of financial services as insurance companies and brokerage houses and banks. What I have discovered, hearing from my constituents, is that the people who are the most worried about this are small business men and women who have nothing to do

with banking but who do have a program in their business to extend some degree of consumer credit.

I will give an example: a furniture store that sells furniture and advertises you buy the furniture now and payment is delayed for 90 days as a come-on to get people to come in. Mr. President, you have seen those ads in the paper in Washington. I have seen those ads. It is the kind of thing that goes on.

Businesses extend credit in one way or another. It is not the core of their business, it is just a way of trying to attract customers. Suddenly they discover, if this bill passes, they will be under the control of the Consumer Protection Agency that is being created for this, and Federal officers will have the right to show up on their premises and say: This is not a proper handling of this credit. We are going to treat you as if you were Citicorp or Goldman Sachs or whatever. We are going to come down with the heavy hand of the Federal Government to tell you how you can do your business and fine you or produce other kinds of barriers to your doing business.

The fellow says: Look, I just want to sell a sofa, and I just want to be able to sell it on credit to somebody who wants to buy it on credit. What is wrong with that?

No, under the terms of this bill, the Consumer Protection Agency of the Federal Government will be looking down your throat.

As I move around the State, I have one small business man or woman after another come up to me and say: What in the world are you people in Washington thinking about, the kinds of regulations you are going to put on me and my business? Some of them are saying they are afraid they are going to have to close their doors rather than deal with this significant challenge.

We are, in this bill, overreacting to the seriousness of the crisis that has put us in this recession. I have a friend who has been a Washington observer for many years, and he says whenever faced with a crisis, Congress always does one of two things: nothing or overreacts. This is a classic example of overreacting.

By creating a Consumer Protection Agency with the sole focus to protect the consumer, we run the risk of doing the kind of damage I have described to small business. I say to people, if safety is the only criterion by which you are going to judge an institution, the safest institution in which no one will lose any money is the one whose doors are closed, the one that offers no risk anywhere because all business is a risk. If you are going to say, no, you are going to protect the consumers absolutely, the way to protect the consumers absolutely so that they will never lose a dime is not allow them to make a purchase, not allow them to ever get a loan, not allow them to ever receive any credit.

If this bill passes in the form it came out of the House Banking Committee,

that will be the impact of this bill. Across the board it will be to reduce credit, it will be to reduce opportunity, it will be to damage small businesses.

Again, I have not talked to the people on Wall Street. I have talked to the people on Center Street—I would say Main Street because every town in America has a Main Street, but in Utah, in addition to Main Street, we have Center Street in many of these small towns. That shows how close to the issue the people in Utah are.

There is another issue I feel strongly about, and that is the definition of "too big to fail." This creates and solidifies the notion that some people, some institutions are too big to fail. I believe one of the lessons we have learned out of the crisis we went through starting in September of 2008 is that nobody should be deemed too big to fail; and, indeed, we should create a circumstance where the bankruptcy courts handle things and there is no Federal bailout in the fashion of saying: You are too big to fail and the government will protect you from failing.

I remember years ago when we had the first bailout with Chrysler at the time. Lee Iacocca made his reputation bringing Chrysler out of the bailout and repaying the government with interest. People point to that and say: The government kept Chrysler from going under. The money was repaid. It was just a loan guarantee. The government didn't lose any money.

I remember one observer, when asked about it, said: I am not worried about whether the bailout will save Chrysler. What I am worried about long term is that it will work.

There were people saying: What happens if it fails?

He said: I am not worried about it if it fails. I am worried about it if it works and the Federal Government gets the appetite to step in, in example after example, and always point to the Chrysler bailout and say: Well, we made money on that, so we can do it again.

By creating that kind of moral hazard of stating these institutions are too big to fail, we run the risk of seeing a repetition rather than avoidance of the crisis we had that created all of the difficulties in our economy today.

So, on the one hand, I speak for the small businessman and the small businesswoman who say this bill will be a disaster for them. On the other side, I say let's not create, in the name of protecting the customer, a circumstance where institutions are deemed as too big to fail and can be guaranteed, once again, a degree of government backing that the marketplace would not give them. I trust the marketplace. We have learned to do that as we go through the wreckage of what happened in the housing crisis.

I think we need to be very careful with this bill. Do we need financial reform? Yes, we do. Would I vote for a sensible bill? Yes, I would. Am I a sup-

porter of the status quo? No, I am not. But I do not believe the bill that came out of the Banking Committee is an improvement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

#### EARTH DAY

Mr. CARDIN. Mr. President, I take this time to commemorate the 40th anniversary of Earth Day that we celebrate today, April 22.

I think we first need to acknowledge that we have made a lot of progress since the Cuyahoga River in Ohio caught fire in 1969. We have made a lot of progress since the uncontrolled air pollution that killed 20 people and sickened 7,000 people over just a few days. That happened in Donora, PA. We have come a long way since the exposé on the New York Love Canal, where toxic waste was dumped into neighborhood streams.

We have made a lot of progress. I think the most important symbol of that progress is that the environment is now in mainstream America. It is mainstream politics. It is a way of life for us, and that is really good news. It has given us the political strength to pass important environmental laws. We passed the Clean Air Act, the Clean Water Act, the Superfund law. I am particularly pleased about the Chesapeake Bay Program. I remember when we started that program almost 30 years ago. It was a difficult start, and people wondered whether we would have the power to stay with this issue so that we could try to reclaim the Chesapeake Bay. Well, we did. It is still an issue we are working on today. We created the Environmental Protection Agency, an agency in the Federal Government with the sole purpose to try to help us preserve the environment for future generations.

I think we can take pride in what we have been able to do. We have made great progress as a nation. We should celebrate our success in addressing the great environmental challenges of the past. But our work is not done. Our environment faces new challenges today that are less visible and more incremental but still pose great threats to our treasured natural resources and all the work we have done to protect and restore them. For example, we do not worry that our great water bodies such as the Chesapeake Bay will catch fire, but there are small amounts of pollutants running off millions of lawns that accumulate and make it very difficult for us to reclaim our national treasures.

The great wave of water infrastructure we built over 40 years ago is now past its useful life and must be replaced. Water main breaks, large and small waste water, destroy homes and businesses, and undermine the water quality benefits this infrastructure was meant to protect.

Let me just give you a couple of examples that have happened in the last