

So I hope we can put to rest this idea that only judges are qualified to be Justices. That is not a standard that we have applied throughout history, and it is not one we should start applying today.

Just think—and I will end with this, Mr. President—how far we have come. When Sandra Day O'Connor graduated from law school 50 years ago, the only offer she got from a law firm was for a position as a legal secretary. Justice Ginsburg faced similar obstacles. When she entered Harvard in the 1950s, she was only one of nine women in a class of more than 500, and one professor actually asked her to justify taking a place in that class that could have gone to a man. Later, she was passed over for a prestigious clerkship despite her impressive credentials.

In the course of the more than two centuries of this great country, 111 Justices have served on the Supreme Court. Only three have been women. If confirmed, Ms. Kagan would be the fourth, and for the first time in the history of our country three women would take their places on the bench when arguments are heard in the fall.

I look forward to our Judiciary Committee hearing. I have to tell you, I hope my colleagues listen to what Elena Kagan has to say. When she came before our Judiciary Committee as a nominee for Solicitor General, she was very impressive. She got bipartisan support. I would like to see that again.

Our job is to look at the qualifications of this nominee. Our job is to decide if she is competent. As Senator GRAHAM said during the confirmation hearing for Justice Sotomayor, he may not have picked a particular nominee, he may have supported someone else for President, but in the end, our job is to look at their qualifications and whether they will serve our country well on the Supreme Court.

I believe the answer for Elena Kagan will be yes. We are all looking forward to the hearings, and I urge my colleagues to come to the hearings with an open mind.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will resume consideration of the House message to accompany H.R. 4213, which the clerk will report.

The legislative clerk read as follows:

Motion to concur in the House amendment to the Senate amendment to H.R. 4213, an act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Pending:

Baucus motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Baucus amendment No. 4301 (to the amendment of the House to the amendment of the Senate to the bill), in the nature of a substitute.

Reid amendment No. 4344 (to amendment No. 4301), to amend the Internal Revenue Code of 1986 to extend the time for closing on a principal residence eligible for the first-time homebuyer credit.

Thune/McConnell amendment No. 4333 (to amendment No. 4301), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 5 minutes of debate equally divided between the Senator from Montana and the Senator from Iowa or their designees.

The Senator from Montana is recognized.

AMENDMENT NO. 4301

Mr. BAUCUS. Mr. President, this vote is about jobs—plainly and simply about jobs. Fifteen million Americans are out of work. Fifteen million Americans need our help.

We need to continue our efforts to get Americans back to work. Creating jobs has been a top priority. The pending substitute amendment to the American Jobs and Closing Tax Loopholes Act would help achieve that goal.

The amendment would cut taxes for American workers and families by more than \$4 billion. The amendment would cut taxes for businesses by \$18 billion to help them expand and create jobs.

The amendment would extend Small Business Administration loan programs to help restore the flow of credit. These programs will help small businesses to grow and hire new workers. This extension eliminates fees for certain SBA loans and increases government loan guarantees.

Since their creation in the Recovery Act, these provisions have supported more than \$26 billion in small business lending. They have helped to create or retain more than 650,000 jobs.

The amendment would expand community college and career training grants offered through the Trade Adjustment Assistance Program. These grants provide Americans who have lost their jobs through no fault of their own the opportunity to learn new skills to find good jobs.

The amendment would support more than 350,000 jobs for youth ages 14 to 24 by expanding successful summer jobs programs created in the Recovery Act. This age group has some of the highest unemployment levels. Fully one-quarter of those aged 16 to 19 are unemployed—one-quarter.

The amendment would extend funding for States to provide wage assist-

ance to employers who hire new workers. Wage assistance helps companies that might not otherwise be able to afford the cost of hiring new workers to create jobs.

The amendment would provide targeted, temporary pension relief to help employers who are struggling in this tough economy to continue to fund employee pensions without cutting jobs or restricting new hiring.

This amendment is about creating good jobs.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I thank the Chair, and I urge my colleagues to support the amendment. Let's advance this effort to create jobs.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, this bill, as it comes forward, spends more money than we budgeted for and, as a result, it violates the budget. We are trying to get some fiscal discipline around here. This would be one of the places we should start.

So I raise a point of order that the pending amendment offered by the Senator from Montana would cause the aggregate level of budget authority and outlays for fiscal year 2010, as set out in the most recently agreed to concurrent resolution on the budget, S. Con. Res. 13, to be exceeded. Therefore, I raise a point of order under section 311(a)(2) of the Congressional Budget Act of 1974.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974 and section 4(g)(3) of the Statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of the pending amendment, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Arkansas (Mrs. LINCOLN), are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. ROBERTS).

The PRESIDING OFFICER (Mr. BURRIS). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 45, nays 52, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—45

Akaka	Brown (OH)	Casey
Baucus	Burriss	Conrad
Bennet	Cantwell	Dodd
Bingaman	Cardin	Dorgan
Boxer	Carper	Durbin

Feinstein	Lautenberg	Schumer
Franken	Leahy	Shaheen
Gillibrand	Levin	Specter
Hagan	Merkley	Stabenow
Harkin	Mikulski	Tester
Inouye	Murray	Udall (CO)
Johnson	Reed	Udall (NM)
Kaufman	Reid	Warner
Kerry	Rockefeller	Whitehouse
Klobuchar	Sanders	Wyden

NAYS—52

Alexander	Ensign	McCaskill
Barrasso	Enzi	McConnell
Bayh	Feingold	Menendez
Begich	Graham	Murkowski
Bennett	Grassley	Nelson (NE)
Bond	Gregg	Nelson (FL)
Brown (MA)	Hatch	Pryor
Brownback	Hutchison	Risch
Bunning	Inhofe	Sessions
Burr	Isakson	Shelby
Chambliss	Johanns	Snowe
Coburn	Kohl	Thune
Cochran	Kyl	Vitter
Collins	Landrieu	Voivovich
Corker	LeMieux	Webb
Cornyn	Lieberman	Wicker
Crapo	Lugar	
DeMint	McCain	

NOT VOTING—3

Byrd	Lincoln	Roberts
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The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Under the previous order, the motion to concur with amendment No. 4301 to the House amendment to the Senate amendment to H.R. 4213 is withdrawn.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to a period of debate only until 12:30 p.m., with no amendments or motions in order during this period; that the time be equally divided and controlled between the leaders or their designees, with Senators permitted to speak therein for up to 10 minutes each; and that the order for the recognition of Senator BAUCUS still be in effect.

The PRESIDING OFFICER. Is there objection?

The majority leader is recognized.

Mr. REID. Mr. President, I ask my friend to modify the consent agreement to have the Senate be in recess from 1 p.m. until 2 p.m. today. We will have a caucus going on at that time.

Mr. BAUCUS. Mr. President, I so make that request.

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

The Senator from North Dakota is recognized.

COBELL SETTLEMENT

Mr. DORGAN. Mr. President, the legislation that is pending and on which we now have general debate is legislation that is important. I know there has been plenty of discussion about it. I want to discuss one element of it. The legislation includes provisions to approve the Cobell settlement. The Cobell settlement is perhaps something which people do not know much about. It is a settlement of a longstanding lawsuit that has been winding its way through the Federal courts for 14 years. It is about things that have been done to American Indians that are almost unthinkable and for which they

have sought redress in the Federal courts.

Let me describe this, if I may, by using a photograph of a woman. This is a photograph of Mary Fish. By telling you a little about Ms. Fish, I can describe the problem that the Cobell settlement, which is in this underlying legislation, attempts to address.

Mary Fish died a few years ago. Mary Fish was an Oklahoma Indian. She lived in a very small, humble house with 40 acres. There were six oil wells on her land that had been pumping Oklahoma sweet crude for years. Even with all of these oil wells pumping on Mary's land, she made only a few dollars a year from those wells.

Why would it be the case that this woman had oil wells on her land, lived in a small, little house, had virtually nothing, and got only a few dollars from the oil wells? The problem dates back over 100 years when the Federal Government divided up Indian tribal lands, and distributed the land in trust to individual Indians, saying: We will take care of your land for you. We will manage it. We will handle it. And, by the way, we will provide you with the proceeds from leasing on the lands.

Almost as soon as this system was set up, the Indian people found that the Federal Government, and all kinds of other manipulators involved, stole from them, cheated, and looted their lands and trust accounts from those lands. The fact is, if you go back 100 years and try to reconnect the trust accounts the Federal Government said they were holding for these Indians—for grazing fees that were paid on the Indian lands, for oil that was pumped from Indian lands, for minerals, for agriculture—what you will find is this Federal Government going back all those years does not have any records, cannot reconnect, does not have the foggiest idea what happened. In addition, there were a lot of unscrupulous people who were stealing, cheating, and looting. That is why these American Indians, the first Americans—those who were here first—14 years ago filed a case in Federal court now called Cobell v. Salazar, a case against the Secretary of the Interior.

Cobell v. Salazar has languished for 14 years in the Federal court system. At long last, there has been a negotiated settlement to settle these claims that have existed for a long time. Claims of Indians being cheated by a government that, in some cases, was corrupt for over 100 years.

That settlement is in the underlying legislation. The settlement was not something the Congress did. The settlement was a settlement between the Department of the Interior, led by Secretary Salazar, and the plaintiffs, led by a woman named Elouise Cobell. Recently, the plaintiffs and the Department of the Interior reached an agreement—finally reached an agreement—to address this unbelievable set of terrible events over the last century that cheated American Indians out of what they were owed.

My colleague from Wyoming has offered an amendment to change the settlement. My colleague, Senator BARRASSO, is someone with whom I work on the Indian Affairs Committee. I am Chair; he is Vice Chair of the Committee. I have great respect for him. I do not take issue with the fact he thinks this settlement, perhaps, could be better. I don't know that. He has some ideas on how it can be changed.

The dilemma is that we are not a party to the negotiations to reach that settlement. Perhaps if the Senator would send his recommendations to the Secretary of the Interior and the plaintiffs and they sit down at a table and decide if they want to renegotiate this or decide that. Whether there are other ideas that could or should be added, perhaps that might be beneficial. But if the Congress now decides that this settlement, which is to be paid out of the United States Judgement Fund, is not something that Congress supports, that it needs to be changed, then I think this settlement will be scuttled, and we will be back in the same position we were in.

The Federal judge who watched over the negotiations that reached a settlement in the Cobell case set a deadline of 30 days and then a second deadline and then a third deadline. The Congress missed all of those deadlines—every single one. The Federal judge a few weeks ago said: I would like to call Members of Congress down to my court to find out what on Earth they are doing, what is going on. Why can this settlement not get approved by Congress, because after 14 years, I think the Federal court believed a settlement agreed to by both parties was the appropriate thing to do. Despite this, Congress has missed all the deadlines.

In these proceedings we have been considering the Cobell settlement which is a part of the underlying legislation. I support that settlement. Is it perfect? I don't know. I was not a part of the negotiating team. That was the Interior Department and the plaintiffs, the Native Americans on behalf of the plaintiffs who have been cheated over all these years.

My colleague Senator BARRASSO says the parties themselves made changes to the settlement and so they should not mind a few more changes by the Congress. The difference is who makes the changes. The party to a settlement can make changes by agreement of the parties. But if Congress makes changes unilaterally, of course, then Congress risks voiding the entire settlement, which I fear would be the case.

Senator BARRASSO's amendment would change the settlement and I think risk sending these parties back into endless litigation that has gone on now for 14 years. I do not think anybody wants that.

Senator BARRASSO has said his proposed changes are within the framework of the settlement. But the administration, Secretary Salazar, and others have already sent a letter to the

Congress saying it believes these changes are material and would, therefore, void the settlement. I do not think any of us would want that to happen.

My colleague Senator BARRASSO has not said the settlement is unreasonable or unjust, only that he wants to improve the settlement. With great respect to my colleague—and I do like him, and we work together well on a lot of issues—I believe now is not the time to decide after 14 years that this settlement needs improvement.

If the changes are within the framework of the settlement, my recommendation is that he meet with the parties who were at the table and reached this settlement. If they believe his ideas have some merit, maybe some of them will find their way into the settlement. The Congress was not a party to that settlement and should not make unilateral changes.

I hope very much we can finally resolve more than a century of theft and mismanagement through this settlement. When I talked about looting, stealing, cheating, and theft, I understand that. I said that deliberately. That is exactly what has happened. Even worse has been the unbelievable mismanagement of those funds that cheated a whole lot of people.

This is a photograph, as I indicated, of Mary Fish. I said she had six oil wells on her land. She lived in a humble little house and got a couple dollars from them. Somebody else got the money. Who got the money? What happened to the money from the oil wells on this woman's land that led her to die before she had a chance to lead a good life, to have the resources that should have been hers?

I have another photograph, this woman's name is Susan White Calf. She is from the Blackfeet tribe. She is a Blackfeet Indian. She passed away in November of 2007. This picture was in 2001. She took this picture with her grandchildren.

Mr. President, 2001, by the way, was the same year that the Federal courts found that the Federal Government had broken its trust responsibility to the American Indians by this unbelievable mismanagement of Indian trust funds. The Federal Government said: Trust us. We will take care of your funds. We will take care of your assets. Trust us. The fact is, unbelievable mismanagement, some theft, and some looting occurred.

Six years later after 2001, 6 years after the courts found that the Federal Government had broken its trust responsibility to American Indians, Susie died, still waiting to get the money that was owed her for grazing leases on land she owned. This is money that Susie White Calf should have had during her life but did not because the Federal Government dropped the ball, was guilty of unbelievable mismanagement. This problem of mismanagement goes back well into the 1800s.

When you read the stories of how the Indians were cheated and the federal

mismanagement, and then take a look at where the records were being stored. It is unbelievable. You cannot even reconstruct the records that were stored in rat-infested warehouses. You cannot find some records, and you find others in rat-infested warehouses.

I ask unanimous consent to proceed for as much time as I may consume.

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

Mr. DORGAN. Mr. President, I will not speak long. Let me continue and finish.

When the historic accomplishment occurred of settling this lawsuit after 14 years between the Federal Government and the plaintiffs, when that historic agreement was reached, I was hopeful the Congress would move very quickly and provide the resources, from the Settlement Fund, that are available to make this settlement work.

I hope very much, if there is a vote—I don't know there will be a vote on the Barrasso amendment—if there is a vote on the Barrasso amendment, I hope very much my colleagues will oppose it.

I say to Senator BARRASSO that the ideas, recommendations, and thoughts he has about this settlement should be presented to both sides who negotiated the settlement. In fact, if Congress were to unilaterally make changes, I think it would void the settlement. Void it after 14 long years and a lot of important work that would culminate in a settlement that plaintiffs have been waiting for and plaintiffs well deserve.

I urge my colleagues, as the Administration has urged, let us not unilaterally go outside the settlement that has been structured and negotiated. Let's decide to do what I believe Congress has a responsibility to do.

The longer this drags out, the more the American people see what was done to American Indians, the more people see how badly some of these people were cheated. Yes, this woman, who never got her money and died long before that money was ever available. Yes, this woman, who lived humbly all her life with six oil wells on her land and got virtually nothing from it. Do we have to continue to talk about these issues, or should we settle this and do what the Federal Government should do: own up to its responsibility, say we have done wrong here, say we will fix it now, say the trust accounts are going to work the way they should work. But to recompense for past mistakes and for money that was not given to the first Americans that the Federal Government promised would be theirs, that belonged to them, came from their lands, let's not interrupt that with an amendment on the floor of the Senate on this legislation. Let us instead decide we will ratify this agreement and put this behind us.

It is a very sad, sorry chapter in the history of this government in the way they have treated American Indians.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the previous order regarding debate be extended to 1 p.m. under the same conditions, and limited.

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

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

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

RESTORING MARKET CREDIBILITY

Mr. KAUFMAN. Mr. President, I have always believed—and I have spoken many times on the Senate floor—that the two most important things that make America great are democracy and free capital markets.

But over the last year, as many of my colleagues are aware, I have become deeply concerned that the credibility of our stock markets—one of our Nation's most precious national treasures—can no longer be taken for granted.

On May 6, when the markets yo-yoed up and down, plunging 573 points in a mere 5 minutes before recovering 543 points in the next 90 seconds—it was nothing less than an embarrassment.

The strength of our stock market depends on its ability to establish an accurate price for a company's fundamental value that reflects a consensus among buyers and sellers at any given moment.

In that capacity, the markets failed, in fact they spectacularly failed, for a harrowing 20-minute time period.

In the aftermath of May 6, the integrity of our markets has been questioned, and investor confidence has been shaken.

In order to restore market credibility and instill confidence among the investing public, regulators and lawmakers alike must act wisely but urgently to fix the structural schisms that plague today's capital markets.

That is why I am encouraged, and relieved, that Mary Schapiro, the Chairman of the Securities and Exchange Commission, clearly understands what is at stake.

Testifying before the Senate Subcommittee for Securities, Insurance, and Investment on May 20, she said:

I believe the markets exist for public companies to raise capital, to build businesses, and create jobs, and they exist for investors to support that activity. And those are the number one and number two purposes of markets. And everything else from my perspective has to be put into the context of those two goals.

At a panel last week in Montreal at the International Organization of Securities Commissions, Chairman Schapiro reiterated that point, saying the SEC needs to . . .

[E]xplore whether bids and orders should be regulated on speed so there is less incentive to engage in this microsecond arms race

that might undermine long-term investors and the market's capital-formation function. The markets have to serve that function for companies to raise money, create jobs and allow the economy to grow . . . We are also looking at whether and to what extent pre-trade price discovery is impaired by the diversion of desirable, marketable order flow from public markets to dark pools.

I couldn't agree more with Chairman Schapiro.

May 6 made clear what many have long claimed: today's overly-fragmented marketplace, which seems to favor speed over substance, and trading over investing, may be inhibiting the capital-formation process and failing to protect the interests of long-term investors.

If that is the case, then regulatory action is needed urgently.

Simply put, do stock prices adequately reflect the economics of the companies they represent?

On May 6, when liquidity vanished and established companies like Accenture traded briefly for a penny a share, the answer to the question of whether our markets are performing their central function was clearly no.

But rather than an aberration, it appears that the May 6 flash crash was no isolated event.

On June 2, we saw yet another "mini-flash crash" in the stock of Diebold, a technological services company.

Prior to 12:22 p.m. that day, Diebold had traded at around \$28 per share and within a range of roughly 80 cents.

In the next minute, the rug was swept out from under Diebold as 399,000 shares were traded and Diebold's stock price plunged 35 percent to \$18.

By 12:40, Diebold was once again trading at \$28 per share.

The sudden decline in price appeared to be in response to news of Diebold's settlement with the SEC over fraudulent accounting practices, which Bloomberg began reporting at 12:25 and Diebold confirmed with a press release a little more than an hour later.

The SEC should investigate both the manner in which the news broke and the trading activity that followed it.

In the aftermath of the extreme plunge, questions have been raised concerning the manner in which the SEC filed the complaint, which data feeds first reported it, and the electronic overreaction to the news—all of which suggest that the severe volatility in Diebold could have been largely avoided altogether.

The SEC was actually resolving an old investigation with Diebold, the settlement of which had been previously disclosed, and not making any new accusations against the company.

But when word of the complaint reached Bloomberg or other sources, it led to a "trigger" that potentially activated algorithms programmed to react immediately to breaking news. This may explain why trading activity in Diebold exploded shortly before the story broke publicly.

Notably, the SEC filed the complaint manually at the U.S. Federal District

Court in DC during market hours rather than using the Public Access to Court Electronic Records—PACER—filing system.

Mr. President, regulators should add to their list the need to examine whether the precipitous drop in Diebold stock was the result of high frequency traders who can subscribe directly to market data and news feeds and perhaps had programmed faulty correlations into their algorithms to react to breaking news events.

Indeed, with so much of the marketplace dominated by high frequency traders employing similar strategies, an overreaction by a few algorithms looking to trade instantaneously on the basis of imprecise correlations could trigger a dramatic plunge.

While the algorithms' calculations may be accurate "most of the time," the chaos that ensues when they are not inexcusably undermines investor confidence.

In the Diebold case, once the algorithmic overreaction became clear, humans with actual knowledge of Diebold's true fundamentals quickly intervened. It is no surprise, then, that the stock price rebounded so quickly.

Though volatility has always been present in the markets, we see that without human judgment the speed of trading can indeed lead to very brief "bungee jumps" for individual stocks whenever there is a significant news event.

At the same time, regulators should also consider whether the extreme volatility in Diebold's stock is yet another example of sell orders breaking through a "razor-thin crust" of liquidity provided by high-frequency traders.

As we saw on May 6, the high-frequency traders who fill the order books on many market centers provide only "fleeting" liquidity, particularly in periods of market stress or uncertainty.

This is because many high frequency traders prefer to continuously place and cancel small, rapid-fire orders rather than risk letting their orders sit on public venues where they would increase order book depth and promote orderly markets.

Regardless of what caused Diebold's "bungee jump" or the May 6 market meltdown, we should all agree that such unusual market activity strikes at the very heart of our market's credibility.

Even if the SEC's circuit breaker pilot program—which would halt trading for 5 minutes in any S&P 500 stock that experiences a 10 percent price change in the previous 5 minutes—were in place, market and stop-loss orders would still remain vulnerable to a 10 percent insta-drop.

This situation undermines the confidence of long-term investors.

Mr. President, the Diebold incident and other factors from May 6 make me concerned about what our markets have become.

According to a research group survey of 145 market participants conducted in

the weeks following May 6, I am not alone.

The Executive Summary of the survey results states overall investor confidence in the existing market structure is waning.

The summary says:

Barely half of all participants have at least a high degree of confidence in U.S. equity market structure; The buy side has the least confidence in U.S. equity market structure. This is particularly demoralizing given they are the guardians over much of our nation's equity investments; Participants no longer believe market structure strongly supports an orderly market; Increasingly, market participants believe that the U.S. equity market structure is not a level playing field.

These results underscore how critical it is for regulators to address problems with the current market structure in order to restore investor confidence and protect the strength and credibility of our capital markets.

Sadly, Mr. President, the fact is that we simply do not have the data we need to assess fully the impact of market structure changes on long-term investors.

Indeed, regulators currently lack sufficient information on the routing history of orders—including those that may go through broker-dealer internalization venues, other dark pools, and multiple exchanges and ECNs before being executed.

The SEC also acknowledges it does not have: "important information on the time of the trade or the identity of the customer."

As Kevin Cronin, the director of Global Equity Trading at Invesco, a retail and institutional investment fund, said at a June 2 SEC Roundtable:

There are dimensions of cost that today we do not have the ability to really understand.

Accordingly, I have pushed for the SEC to quickly implement tagging for large traders and a consolidated audit trail in order to gain a more granular view of the marketplace.

Once the Commission has collected the data, it should improve its internal analytical capabilities while also making the data available in masked form to the public, or at least academics and independent analysts, so that objective experts can study market performance comprehensively.

I admit there are no easy solutions, Mr. President, but we need to strive to answer the difficult questions or millions of Americans will eventually lose confidence in our markets and leave what is already starting to look like a "casino."

In that regard, Chairman Schapiro again appears to be on the right track. Regulators must consider, as she said, whether high frequency traders should be subject to speed limits and whether deep and valuable liquidity is being shielded from the public marketplace.

Our markets should not be reduced to a battle of algorithms in which capital formation is an afterthought and long-term investors are relegated to second-tier status, nor should the public "lit" markets house only "exhaust" order

flow that is passed over by those who trade in dark pools.

Perhaps high-frequency traders who claim to be “modern-day market-makers” should be subject to some quoting obligations like their traditional market-maker predecessors.

Setting reasonable speed limits on how quickly such traders can withdraw their bids and offers, as Chairman Schapiro alluded to last week, could help level the playing field and make the markets safer and more stable for all investors.

I have also proposed requiring exchanges and market centers to allocate costs at least partially based on message traffic share.

Cancellations, of course, are not inherently bad—they can enhance liquidity by affording automated traders greater flexibility when posting quotes.

But with as many as 98 percent of orders placed on Nasdaq cancelled or otherwise unexecuted on a given trading day, their use is clearly excessive.

Those who choke the system with cancellations make the markets less efficient for investors. And they should pay the price for the inefficiencies they create.

Exchanges cater to high frequency traders in a variety of ways, by electing not to charge them for high cancellation rates, and providing co-location services for their computers right next to the exchanges’ own servers.

Fortunately, co-location and direct market data feeds appear to be on the regulatory radar—the CFTC proposed a rule last week to ensure exchanges provide “fair access” for, and increased transparency of, co-location services.

But new practices that further threaten market integrity have recently come to light.

Several market participants, including institutional investment adviser Southeastern Asset Management, have said exchanges are releasing private information on investor orders, including details on the total shares an investor has accumulated and other data that could be used by high-frequency traders to trade ahead of investor orders.

It is important to remember that these potentially disadvantaged institutional orders represent the tens of millions of Americans who invest in mutual, pension, and retirement funds.

These market practices, among many others, underscore how critical it is for regulators to keep pace with market developments. The May 6 flash crash and the miniflash crash in Diebold a month later have sounded the alarm that the very credibility of our market is at stake. While regulators must continue to rely on data to drive the rule-making process and be mindful of unintended consequences, they cannot delay in tackling the problems that leave us vulnerable to another flash crash today.

As an engineer and a graduate of Wharton Business School, I understand and appreciate as much as anyone the importance of innovation and techno-

logical development. I want to make it clear I am not interested in banning high frequency trading or dark pools, nor am I advocating a return to the horse-and-buggy system. But new technologies must operate in a regulatory framework that considers both positive and negative consequences. If the public marketplace has been reduced to a battle of algorithms in which liquidity is fleeting and inaccessible when investors need it the most, and if the deep liquidity that is so critical to establishing accurate prices—particularly during times of market stress—is largely traded in dark pools, that must be carefully but urgently remedied.

As John Wooden, the legendary UCLA basketball coach who passed away 2 weeks ago, used to say, “Be quick, but don’t hurry.”

Be quick, don’t hurry.

The SEC and CFTC must adopt the same philosophy as they confront the great challenges before them.

“Be quick, but don’t hurry.”

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

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the time used during the quorum call be charged equally to both sides.

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

Mr. KAUFMAN. 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. DORGAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, I understand the time has been divided during this debate until 1 o’clock. Can I learn how much time is available on our side?

The PRESIDING OFFICER. The majority has 15 minutes remaining.

GULF OILSPILL

Mr. DORGAN. Mr. President, I want to discuss briefly the President’s remarks last evening to the Nation about the oil spill in the Gulf of Mexico and the actions that this administration has been doing to address that. I would also like to discuss issues related to BP, the company that leased the area offshore and drilled the exploratory well which exploded in the gulf.

First of all, I know there is a great deal of anxiety, nervousness and anger about all this. I understand all that because all of us are frustrated that the oil continues to flow. It is a mile down beneath the surface of the water, which

is known as a deepwater well. All of us are frustrated that this spill has not been contained. But the President did not cause that spill, and the President himself cannot fix it.

I do know this though. The Secretary of the Interior, the Secretary of Energy, and many other senior administration officials have brought together the best minds in the world as a team to try to evaluate what kinds of technologies and actions that can be used to fix that leak and stop that gusher. They have consulted many experts. They have consulted the Norwegians who drill in the North Sea in deepwater drilling. They have consulted with many interests. While it is not a case where they have not done everything conceivable to shut down that spill, and I think, as the President suggested last evening, we are beginning to make some good progress.

Then the next issue is how do you deal with the impact on the coastal regions in the Gulf of Mexico. This is unbelievably devastating to these States. How do you deal with that? As I have indicated, what about the guy who has a fishing boat on the pier. The pier is deserted. The boat sits at the end of the pier. There is no opportunity to fish.

And that person has to make a payment on the boat each month. What about that person and what about the tens of thousands of others like him? What about the ecological and environmental damage that has been caused as well? All of those issues are critically important.

I appreciate the fact that the President gave a speech to the Nation. I think it was important to do that. I also appreciate the fact that this administration was on this very quickly. But it is frustrating for them and for all of us that the leak from that well has not been stopped.

I do want to mention the issue of BP because the President mentioned it last night, and we have talked about it before. BP has said they will stand behind all legitimate claims and reimburse people for those impacts. I said last week—and I know the President has also now said it as well. It is one thing to make a pledge but another to follow through on a commitment. We have heard about pledges before. In the Exxon Valdez disaster, Exxon made a pledge to pay for the economic and other damages but then fought it for 20 years. A whole lot of folks died before they saw the result of what they were promised. So pledges are one thing. I want a binding commitment from the responsible party. If BP says they are going to stand behind this—if they do not stand behind this, the taxpayers will eventually end up picking up the tab. So the issue is, if BP says: We pledge this, I say that is fine, let’s make it a binding commitment. Put the money in a recovery fund. You can call it what you want—a trust fund, an escrow account, a recovery fund. Put the money in there so we know it will

be available for use to those who have been impacted. I also think that there needs to be some sort of special master work to find a mechanism by which you begin to get the money out to the people who are hurting. That is what needs to be done.

There is debate about whether BP should pay a dividend to its shareholders that it announced several weeks ago. Of course they should not pay a dividend. There ought to be no dividend at this point. They need to have the money available to recompense all of the damages for all of the people and all the natural resource damages that have occurred as a result of this devastating gusher a mile under the ocean. So I don't want them to pay a dividend. They shouldn't be talking about a dividend. All of the discussion ought to be about how much money you put in this recovery fund.

Thad Allen has written to BP saying: How about some more transparency in how your are making decisions to compensate communities and individuals? I know BP has paid some funding to people, but Thad Allen has said: How about some increasing transparency? Let's find out what you are paying, whom you are paying, how you are paying. What is the criteria? How about some transparency here? We shouldn't have to be asking those questions. The money ought to be put in a fund, and that fund ought to be administered by people who are putting together the criteria by which we address the problems that are being confronted by people all up and down the Gulf Coast. That is what ought to happen.

Another company that is responsible here is Transocean. By the way, Transocean was the company who BP leased the mobile offshore drilling unit from, and they were drilling under contract for BP. They are going to have some responsibility as well, I expect.

Let me give you a description here because it is so symbolic of what is happening too often in this country. Transocean was an American headquartered company, but they moved to Switzerland not too long ago. Why did they move to Switzerland? I assume so they do not have to pay American taxes. Go find a tax haven so you do not have pay taxes to the United States. So they have, as I understand it, about 1,200 employees working in Houston, TX, and about 12 employees in Switzerland. Yet they declare Switzerland their headquarters.

They had a meeting in Switzerland some weeks ago and decided they were going to pay a \$1 billion dividend to their shareholders. They ought not be paying dividends either. They, too, ought to keep this funding available in case it is needed—when it is needed—to be helpful to the people on the Gulf Coast who are seeing these unbelievable impacts. So they ought not be paying dividends at all.

Again, we should be asking questions about Transocean. Is it a big company that should have some liability here? I

guess so. It operates 140 mobile offshore drilling units. It is the world's largest offshore drilling contractor. But again I say, as I have said before, why is it that when you pull the pages back and unearth the story, you discover, that this is a company that moved its headquarters for tax purposes? They first went to the Cayman Islands and then went to Switzerland. Yet, hey have a handful of people in Switzerland and most of the people in Texas. Why does it not want to be an American company? I guess to avoid paying U.S. taxes. Why is it that all these companies want the opportunity to utilize all that our country has to offer but none of the obligations to the country? It is unbelievable, to me.

But with respect to dividends, I say to BP and Transocean: Don't be doing that. You are going to need that money.

Let's make a binding commitment—no more pledges. That old movie, "Jerry McGuire," where Cuba Gooding, Jr., says, "Show me the money"—show me the money. Let's have that money go from a pledge to a binding commitment in a recovery fund, and that will give a whole lot of folks who are hurting today some feeling that maybe, just maybe, they are going to get helped.

I also wanted to make a couple of other points about how the Senate addresses energy and climate change legislation.

Last evening, the President talked about the need for Congress to take up energy legislation. I agree with that. The fact is, we passed an energy bill out of the Energy Committee last June. I want to debate and vote on it on the floor of the Senate.

There are all of these questions about energy versus climate change. Look, the Energy bill we passed will maximize the production of renewable energy. It will help build the transmission lines, the interstate highway of transmission capability, around our country that is necessary so that you can produce energy where the Sun shines and the wind blows and move it to the load centers where it is needed. It can help do all of these things. It includes provisions for building efficiency and retrofits. It does a lot of things to reduce carbon.

I guess my approach to energy is best described—and I didn't take Latin in a high school of nine students in my senior class. But I call my approach "totus porkus," which probably in Latin would mean something like "whole hog." I think we ought to do everything. Let's do everything and do it well. Let's responsibly produce more oil and gas here and do it the right way. Let's maximize wind, solar and other renewable resources. Let's have the first ever renewable energy standard that says we anticipate that 20 percent. We need to get 20 percent of all of the electricity produced from renewable sources. Let's support biomass and more biofuels. Let's do all of those

things and do them well, even as we do them differently, including using coal by capturing the carbon.

By the way, there are a lot of ways to do that. Sandia National Laboratories is working on ways to change the way we think about CO₂. Yes, CO₂ is a major problem, but it can also be a product. Why don't you think of this not just as a problem but a product? What kind of beneficial use can you develop with CO₂ that turns a problem into an asset?

I chair the subcommittee on appropriations that funds the energy research and development for the Department of Energy. We are doing a lot of unbelievable things that take a look at beneficial use of CO₂. Even as we reduce the emissions into the atmosphere to try to protect this planet, we can find ways to use CO₂ in a beneficial way and protect our planet.

My point is this about taking up legislation: Some say, well, you have to bring climate change to the floor of the Senate right now. Look, I don't think there are 60 votes for a climate change bill. But if that is the case, we will see. But at this point, we do know we have a bipartisan bill on energy legislation from the Senate Energy Committee does all of the right things. We ought to try to reduce our dependency on foreign oil and do that soon. We can do that by bringing the Energy bill we have already passed on a bipartisan basis to the floor of the Senate—the sooner the better, in my judgment.

I know we are short of time. I know Senator REID and others—

THE PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. DORGAN. We have all talked about the prospects of debating energy legislation and want to do the right thing. I hope, as the President indicated last night, the right thing is to pass good, comprehensive energy legislation that will make us less dependant on foreign oil and begin to address climate change at the same time.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

GULF OILSPILL

Ms. LANDRIEU. I rise today for the purposes of giving some context and commenting in response to the President's speech last night as well as to some of my colleagues who have spoken on the need for a comprehensive energy policy as we move forward. But I would like to begin by just reminding us all that today is the 57th day of what may prove to be one of the most damaging environmental accidents in our Nation's history.

Fifty-seven days ago, the tragic explosion of the Deepwater Horizon took the lives of 11 men and unleashed an uncontrolled and uncontrollable, to date, torrent of oil and gas into the

Gulf of Mexico. It threatens our environment, and it threatens our economy and the wetlands that underpin a way of life, a precious way of life in the gulf region.

I have had the—I guess unfortunate opportunity to spend some time with the widows. And I say “unfortunate” because I wish I could have met them under different circumstances. But to hear their remembrances of their husbands, to hear the way they expressed to me the heartfelt commitment their spouses had to this industry and to their work and their call for this work to be more safe, for companies to be held accountable, but also their call—which I think serves as real testimony on their behalf to the American people—their call for this deepwater industry to continue, was very moving to me and to all people who I think have had the opportunity to meet these young and very impressive women. I was proud to introduce the Senate resolution honoring these men and their families. I wish to thank my colleagues for agreeing to this resolution unanimously.

But today I wanted to speak on three important issues relative to this general situation: one, the need for better safety regulations and improvements at MMS; the other, the impacts of this moratoria; and the call for accelerated revenue sharing and an accelerated claims process. First, let me begin with the need for better safety regulations.

There are more than 300,000 men and women who work in the oil and gas industry in Louisiana alone. There are a significant number of them who work offshore and directly support both the offshore and onshore industry. The offshore crewmen know this work can be dangerous. They go through a variety of safety drills and regulations routinely. And we owe it to them to make sure these activities are safer in the future. For this reason, I have fully supported a thorough review of offshore drilling safety standards and have applauded the Department, and particularly Secretary Ken Salazar, for his willingness to clean house at the Minerals Management Service.

This tragedy brought to light an unhealthy relationship that has existed, unfortunately for many years, between the oil industry and the Federal regulators who are called to regulate them, to make sure this industry is safe. That must be changed. The regulators did not have the resources to push back. They did not have the expertise.

We in Congress bear some responsibility for that. And that did not start under President Obama’s administration, but it should end under President Obama’s administration. This Congress systematically undermanned and underfunded this important agency by not giving it the appropriate attention it needs, and it is our responsibility to fix it.

I look forward to meeting with the man whom the President has appointed

or nominated to head MMS. I will be making my own independent decision of whether he is the right person for this position. Until I meet him and talk with him and understand a little bit more about him, I will reserve my judgment.

We need a Minerals Management Service that is to be a proud, competent, and respected industry watchdog. We need the cop back on the beat if we are to ensure that an accident of this magnitude never happens again off our shores. As I have said, Minerals Management—many of these employees are my constituents. One of their main offices is in Metairie, LA. I have been there. I have met many of them, and they are some very good people. But they need to be well managed. They need to be well led. They need to be given the resources they need to do the job they can do if that happens.

The Coast Guard also has a role to play. We should strengthen the Coast Guard’s role and make sure that between Interior and the Coast Guard, they are getting the job done for the American people.

Nobody in the country wants this job done better, nobody wants this industry more safe than the people from Louisiana and Mississippi and Alabama and Texas who man these rigs, although, as you know, when you were with me, Mr. President, some of our people said to you in the meeting just last week: We were grateful for the men from Illinois who came down to work on these rigs. So we want people to know we have people from all over the country, from Illinois and Maine who come and do shifts 2 weeks offshore, make a good living for their family, support their families for years. We want it to be safe for everyone.

So I applaud the President and Secretary Salazar for getting MMS back on the right track. That work needs to be done. As I said, the cop needs to be put back on the beat.

Let me speak for a few minutes, though, about this ill-conceived and arbitrary 6-month moratorium. The effort the President is making to ensure this terrible tragedy never happens again is commendable. It is beyond aggravating. It is disgusting. It angers us so much to see the terrible tragedy unfolding on our televisions and to open newspapers across the land and see the most horrific pictures of wildlife being affected, of dolphins and pelicans and birds, precious places to us that we not only work but vacation with our families for many years.

It is very hard to look at those pictures. Americans are suffering through this as we watch this horror movie unfold. But what the President has done could cause even more economic damage than the spill itself, by putting a 6-month moratorium on all rigs drilling below 500 feet.

I know we have to make sure these 33 floating rigs that drill in deep water

and the other standard platforms that drill between 500 and 1,000 feet are safe. But I wish to say unequivocally and with the support of the vast majority of the people of my State and throughout the gulf, 6 months is too long. The deepwater industry cannot survive in the gulf with a 6-month pause. This work has to be done more quickly. The commission was announced last month. It was just seated a few days ago. The work is just beginning. There doesn’t seem to be a sense of urgency. We need a greater sense of urgency to get this work done.

I was pleased to hear the President say he has urged them to get their work done before the 6-month timeframe. That was a slight step in the right direction. But this work has to be done in a much shorter period than 6 months. These rigs will not stay in the gulf for 6 months idling at a cost of \$500,000 a day. They can’t be fiduciarily responsible to their investors and do that. They have to move to where they can drill. So they will. We have already received signals they will simply pick up and move off the coast of Africa or Brazil or Cuba or other places—Venezuela—to drill. They can’t sit idly in the gulf. We have to figure out a way to make sure they are safe, that this never happens again, and make sure they don’t leave. That is the challenge before this administration in the next couple of days and weeks, starting with a meeting I will have with Secretary Salazar this afternoon with a broad coalition of leaders, both from the private sector and the public sector, who are committed to keeping the economy of the gulf coast strong. We have to find a way forward that is somewhere between doing nothing and having all of these rigs leave and not come back for several years. That is one of the points on the moratorium.

Second, I wish to ask the President for his personal support and the support of this body to accelerate revenue sharing, or to accelerate revenue sharing to accelerate a large stream of revenue that is reliable for the Gulf Coast States to be able to rebuild our barrier islands, to rebuild our coast, to sustain this economy and this ecology and this environment over the long run so we can produce the oil and gas this country desperately needs.

Even though this Horizon accident happened 57 days ago, 57 days ago this country was using 20 billion barrels of oil a day. Today, 57 days later, 11 lives lost, the rig at the bottom of the ocean, we are still using 20 billion barrels a day. The President did not say to people last night to park their cars and walk to work. He didn’t say that. I didn’t hear him say that.

We have to understand we have to continue to drill for oil and gas. But when we drill for oil and gas, the taxes that are paid to the Federal Government and have been paid over the years to the tune of \$165 billion to the Federal Government from severances and royalties, that some of that money

come back to the States of Louisiana, Mississippi, Alabama, Texas, and, yes, even Florida, in my view, even if they decide not to drill. They are at risk. They are at the front line. We are not the only coastal States, but we are the frontline coastal States. Those revenues need to come back to us.

We passed a bill some years ago, a bill I worked on for 15 years, called the Landrieu-Domenici Gulf of Mexico Energy Security Act. That bill is in effect. But because of concerns about the deficit, because of a lack of understanding of the urgency by this Congress and past Congresses, that money doesn't come to us until 2017. We can see that is too late. We can see it with our own eyes. We can feel it with our own heart. We can see it is too late now. We needed that money 20 years ago. We needed it 5 years ago. We need it today.

For any energy bill to pass, with all due respect to my good friend, BYRON DORGAN; with all due respect to Senators who have been leading this energy effort, there will be no energy bill. The gulf coast Senators will not allow it. There will be no energy bill of any magnitude without recognizing the vital need for these Gulf Coast States to share appropriately, as interior States share the revenues for drilling. Interior States such as New Mexico, Wyoming, Utah keep 50 percent of the taxes. So the State of Wyoming last year got \$1 billion. We could clean up a lot of pelicans with \$1 billion. Louisiana got virtually nothing.

Our people are on the front line with oil washing up to their knees, and this Congress basically keeps 100 percent of the money. Those days are over. We are going to have some kind of accelerated revenue sharing in any energy bill. Gulf coast Senators will not allow a bill to pass this floor without something we believe is fair to our people.

The third issue I wish to speak to the President about and to the Congress—and the President mentioned it last night, and I am grateful—is an accelerated claims process. These claims are going to be different than any kind of claim process that has been paid, maybe similar to what happened after Katrina and Rita, as Mississippi and Louisiana and Alabama struggled with how to make people whole. This is going to be a complicated and difficult situation. We have workers who can't work, who were used to making \$500 to \$1,000 a week, pretty fairly decent wages, not great but decent. They have not been able to work for a long time.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. LANDRIEU. I ask unanimous consent for 5 additional minutes.

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

Ms. LANDRIEU. Mr. President, that is a modest wage and a decent wage. But it gets a lot more complicated than that. There are boat captains who were getting their business back after Katrina and Rita, recreational boat

captains, fishing captains. Unlike Florida where people will come to the beach and then they will see a boat charter and they will wander onto the wharf and charter the boat, that does not happen in Louisiana because we don't have many beaches. People call from Mexico and Canada and all over the country months in advance and charter a specific boat with a specific captain because we have some of the best fishing in the world. They come with their sons and daughters and their grandsons and granddaughters. They come down with major corporate groups and do this chartering. These companies make millions of dollars a year. They can't work either.

This claims process is going to be difficult. We have restaurants in New Orleans that are 70 miles from the gulf. They have had to either shut their doors or turn down their number of hours of operating or take things off their menus. I don't know how we will calculate the economic damage to them. This is going to be complicated.

We have hotels. We have retirees who own three or four condos. A woman came up to me and said: MARY, my mother is not a business person. She is a retiree. She owns a couple of condos in Florida. That is her retirement income. She rents out these condos. She has had all cancellations this summer. What am I going to do for her?

That is a good question. She will file a claim.

From retirees with condos they rent out to supplement their incomes to fishing boat captains to hotels to restaurants and to the workers themselves, I am glad the President is taking the bull by the horns with this claims process. I hope he is having a frank discussion with Tony Hayward at his office today about that to make sure we don't have one bankruptcy, that we don't have one business, a small business or a medium-size business or a large business that goes bankrupt because of BP's gross negligence in the Gulf of Mexico. They have put the industry at risk. They have put the gulf coast at risk. That claims process needs to work. We have a great job to do ahead of us.

Those are the three points I wished to make. One, we most certainly need to move forward on a balanced energy bill. There will be no energy bill; gulf coast Senators will block anything that does not have immediate help for Gulf Coast States. Let my colleagues be on notice. We can debate the rest of the bill, how we move forward, whether we do nuclear or a portion of drilling or wind or solar. These Gulf Coast States are on the front lines, and we are going to get justice for them in the near future. We are going to accelerate and make the claims process more robust, and we are going to continue to put pressure on the White House and Secretary Salazar, respectfully, but appropriately, to say: Let's get our safety work done in the gulf. We cannot lose this industry. We cannot lose these jobs. Our economy depends on it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BINGAMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BURRIS. Mr. President, I recognize this is Republican time, and should a Republican come, I will then yield the floor to that colleague of mine.

(The remarks of Mr. BURRIS pertaining to the submission of S. Res. 559 are printed in today's RECORD under "Morning Business.")

GULF OILSPILL

Mr. BURRIS. Mr. President, very briefly, in terms of President Obama's speech last night on the crisis in the gulf, I just want to let it be known for the record that I support our President in that speech and every effort he has made in trying to get direction and a solution to the problems we are experiencing down on our gulf coast.

I find it disheartening and disappointing all these commentators who want to attack our President, want him to be angry, want him to act. I have no idea what they want this man to do. But I know this man is doing all he can for the people of America. I ask those commentators to get off of his back, stop attacking the President, who had nothing to do with that problem and is putting everything he has with the resources America has to solve this problem.

This has never happened before in our history. It is a problem beyond comprehension. Yet, still, these Monday morning quarterbacks sit back and criticize and bring out their undocumented types of statements about our President that I just feel emotionally disturbed about.

So I say to all Americans, this President is doing all he can to support this issue we are facing, and you have to deal with BP, you have to deal with Transocean, and you have to deal with Halliburton. Those are the ones who are responsible for this problem. Let's go after them. Make them pay. Make them deal with this and get the solution and, therefore, Americans can move forward.

Thank you, Mr. President.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BURRIS). Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I come to the floor today to talk about the crisis we are having in the Gulf of Mexico and how it is impacting Florida, with the worst economic and environmental disaster in our Nation's history.

Yesterday, I had the opportunity to be with the President of the United States, along with our Governor, Congressman JEFF MILLER, and other State and local leaders, and we talked to the President about the oilspill and what needs to be done in order to mitigate the damage that is happening to Florida and the other Gulf States.

The most important thing I wanted to stress with the President of the United States is that after capping the well, which is job 1—and we have some confidence and the President reported he hopes by the end of this month at least 90 percent of the oil will be captured from the wellhead—but the next most important priority is keeping that oil from coming on shore.

Right now, there is a slick of oil that is 2 miles wide and 40 miles long. It is oil that has come up, apparently, off the bottom of the ocean. There is this “lava lamp” effect that is happening now, where the oil, depending upon the heat of the day, is sinking and rising in the ocean. This is part of that plume that British Petroleum said did not exist, and it is a darker and heavier oil than what we have seen before. This is not merely the sheen that is on the top. That oil is right off the shore of Pensacola.

We need to make sure that oil does not come ashore, does not come on our beaches, does not get into Pensacola Bay, does not go through the Perdido Pass, does not get into those wetlands and marshes. The best way we can do that is to get more skimmers off the coast of Florida.

As of yesterday, there were 32 skimmers off the coast of Florida. That is simply unacceptable. We know from Admiral Allen that there are 2,000 skimmers in the United States. I brought this point up to the President of the United States.

Maybe all of them are not available to come to Florida. But if 500 of them were available to come to the Gulf of Mexico, that would be a huge improvement. There should not be 32 skimmers off the coast of Florida; there should be hundreds of skimmers, especially with this looming threat of this oil coming ashore.

I have asked for weeks that every skimmer that is available in this country and every skimmer that is available around the world be on its way to Florida. I brought up this issue with the President and Admiral Allen. Why aren't there more skimmers? I was told that Admiral Allen is trying to get as many as possible.

We need a sense of urgency to get those skimmers off our shores.

I asked specifically about foreign countries offering aid to bring their

skimmers to Florida and the other Gulf States and I was told that we have help from foreign countries, but yesterday the State Department says that 21 offers from 17 countries to bring help to Florida and the other Gulf States have been refused. Which is it? Are they helping or are we refusing them? We have to get that communications mishap, that misunderstanding, under control. If the foreign countries want to bring their skimmers here, we should welcome them, and the other equipment they can bring to help us ameliorate this oil as it comes ashore.

I am going to stay laser focused on this. We are going to do a skimmer watch. Every day I am here, I am going to come to the floor and report to this Senate, this Congress, and the people of the United States how many skimmers are off the coast of Florida. This is something the Federal Government should do. Thirty-two skimmers sounds as though my buddies and I got some boats out there and did it. It doesn't sound like the Federal Government. The lives of the people of Florida are at stake. Their businesses, their livelihoods are at stake.

I was told by the owner of the pier in Pensacola and a lady who worked for him that people are coming to the beach in Pensacola to see the beach one last time, as if they were visiting a friend on his or her deathbed, because they don't think the beach is ever going to look the same. So they are coming with their cameras and they are bringing their children and showing them what a snow-white beach looks like because they don't think they are going to see it again.

I have had grown men—men I have known 10, 20 years of my life, professionals—come up to me with tears in their eyes worrying about what this is going to mean for Florida. Ninety percent of Floridians live within 10 miles of the coast. People move to Florida because they love the water. We have more recreational boaters and fishermen than any other State. We have more coastline than any State in the continental United States. Only Alaska surpasses us in coastline. We have more beaches than any State in the United States. Water is part of our way of life, and we need to see a more robust effort.

I am appreciative of the President on this escrow fund he has set up, and we have just gotten a report that BP is going to put \$20 billion into this escrow account. We have been asking for this since the beginning of May. I am glad the President got it done. While I don't always agree with the President, where credit is due, credit should be given, and he should be given credit for this and getting it done. We need those dollars to pay claims. We need those dollars because Floridians are getting mixed results from BP about paying those claims. So I am appreciative of the President for taking the idea, executing it, and getting it done. Now we need to see the same attention to de-

tail and urgency in trying to keep that oil from coming to shore, and I look forward to that.

We have failed from the beginning to understand the scope of this spill. On April 23 we thought there were 200 barrels a day leaking. On April 28 it was moved up to 5,000; May 27, 19,000; June 10, 40,000; today, 60,000 barrels a day. Sixty thousand barrels a day leaking into the Gulf of Mexico. That is 2½ million gallons per day; to date an estimated 146 million gallons. We are eclipsing the Exxon Valdez each week that goes by.

We have to stay vigilant. The President must stay involved. I hope he will come back to Florida. We are going to look for him to lead us through this. No one wants the President to succeed more than I do in this particular matter because it is the livelihood of Floridians. It is our economy and it is our environment that is at stake.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Missouri.

Mr. BOND. Mr. President, I rise today to speak about the Thune amendment.

In a few weeks we will celebrate our Nation's birthday. I find it ironic that 234 years after our forefathers first led the fight for independence with the battle cry of “no taxation without representation,” I am hearing similar protests from Missourians today. Their frustration is not only understandable, it is warranted.

Missourians and, I believe, Americans in every State across our Nation have said: No more. They have said no to runaway spending. They have said no to more big government policies. Failing to represent these views, the majority in Congress has fallen down on the job.

It is no wonder that Americans feel as though Washington is not listening since my friends on the other side of the aisle are asking us to ignore our Nation's \$13 trillion debt, the largest in our Nation's history, and pass a bill that would add nearly another \$79 billion to the deficit.

But there is a better way. There is a more responsible way. My colleague from South Dakota, Senator THUNE, has offered a substitute amendment that is paid for—paid for—cuts the deficit by \$68 billion, and includes all the major priorities agreed to on a bipartisan basis by Democrats and Republicans.

In the Thune substitute, of which I am a proud cosponsor, we have a real opportunity to show the American people that we in Washington are listening. We have an opportunity to show the American people we are serious about addressing the most severe financial crisis this country has ever faced, and we have an opportunity for a rare moment of bipartisanship which, in recent years, has become all too uncommon in this body.

As does the proposal from Senator BAUCUS, the Republican alternative extends expiring unemployment benefits

for struggling families until November; and as does the Baucus bill, the Republican alternative extends tax breaks to small businesses which they so desperately need to get back on their feet and start creating jobs. We need to assure them the longstanding tax benefits they depend on will continue.

However, unlike the Baucus bill which the majority is using as a vehicle to increase taxes permanently, increase spending and increase the deficit, the Republican alternative cuts taxes even more by an additional \$26 billion, cuts spending by over \$100 billion and, according to the Congressional Budget Office, reduces—the deficit by \$68 billion, instead of increasing it.

The Thune amendment also stops the cuts to doctors and provides a 2-percent increase in Medicare reimbursement payments that go to doctors this year, and an additional 2 percent in 2011 and 2012. That is one more year than the doc fix in the Baucus bill, and it is actually paid for, not put on our children's credit cards.

I have heard from doctors across Missouri and they can no longer face the devastating cuts that threaten their livelihood and threaten our seniors' access to care. They are telling me they are going to have to stop taking Medicare patients, because the way Medicare is implemented now, they only get 80 percent of what it costs them to provide the service and they are saying, We just can't cut any more—we can't take any more Medicare patients. Hospitals are saying the same thing. That is before the half trillion dollar cut in Medicare reimbursement comes in. It perplexes me that the majority has not addressed that problem in what they told us was a comprehensive health care law.

Something else that was largely left out of the new health care bill was malpractice reform. The Thune amendment corrects this oversight and enacts comprehensive medical malpractice reform that will save up to \$49 billion over 10 years.

My friend from Montana, Senator BAUCUS, takes the opposite approach. The bill he and the majority leader are asking us to support increases spending by \$126 billion, including over \$70 billion in new and permanent tax increases, and will increase the deficit by \$79 billion over the next 10 years. The Baucus-Reid bill is exactly the kind of approach that history has shown us won't work and the American people have told us they don't want.

The American people have had it with Washington-gone-wild policies. They have had enough of the spending, the tax increases, the debt, the bailouts, the big government job-killing policies that have been pushed through Congress and have been supported by the administration. Today, the Republican alternative offers the majority an opportunity to reverse course, to end the out-of-control spending and get serious about fiscal responsibility.

When facing a crisis, words mean very little. To say you are concerned about the debt while voting to increase it means very little to our children and grandchildren who will have that bill on their credit cards and will have to foot the bill in the future. As the old country and western song goes: We need a little less talk and a lot more action. The Thune amendment offers us a real chance to bring sanity back to Washington policies and for Members of this body to show the American people they are serious about meeting needs while also addressing our growing deficit.

I urge my colleagues to join me in supporting the Thune amendment and, after months of ignoring them, finally demonstrate to the American people that, yes, we are listening to them, we are concerned, we are going to do something about the debt, the deficit, and the other problems this country faces.

Mr. President, I yield the floor.

RECESS

Mr. BOND. Mr. President, I ask unanimous consent that the Senate stand in recess.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2 p.m.

Thereupon, the Senate, at 12:56 p.m., recessed, and reassembled when called to order by the Acting President pro tempore.

AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010—Continued

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

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of debate only until 3:30 p.m., with no amendments or motions in order during this time, and that the time be equally divided and controlled between the leaders or their designees, with Senators permitted to speak therein for up to 10 minutes each, and that the order for recognition for Senator BAUCUS remain in effect.

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

Mr. CARDIN. Mr. President, before I suggest the absence of a quorum, I ask that the time be equally divided between the majority and the minority.

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

Mr. CARDIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BROWN of Ohio. Mr. President, the Senate will soon vote on the American Jobs Act—a critical bill that would create jobs and help expand small businesses. It would close the tax loopholes that allow far too many large corporations to move jobs overseas. In doing so, it would establish, conversely, tax incentives for American small businesses so they can create jobs in America. We have seen for too many years—and the Presiding Officer, in New Mexico, has seen too many jobs in Albuquerque, Santa Fe, as I have in Cleveland and other cities, move overseas because of trade agreements and bad tax law.

The Senate, we hope, is close to voting on extending unemployment insurance and COBRA subsidies through the extenders bill. Far too many Republicans seem to look at unemployment insurance as welfare. Unemployment insurance is what it is called—insurance. When you have a job, you pay into the unemployment fund. When you are laid off through no fault of your own, you can receive help from that insurance fund. It is as simple as that.

We cannot forget why we are in this untenable position of needing to help small businesses and workers and strengthen the public programs that help Americans find new jobs. We are here because of reckless Wall Street practices brought on by unprecedented greed that has created a crippling recession.

I rise to discuss the Wall Street reform bill, as it is now being negotiated in the conference committee, for a few moments.

Last week, David Wessel noted in the Wall Street Journal—the paper of record for finance, if you will—that when surveyed by the newspaper, leading economists suggested the prevailing belief that the Senate bill didn't go far enough to address the issue of banks being too big to fail.

During the Senate debate, I put forward a proposal with Senator KAUFMAN, of Delaware, that would have addressed the problem by capping the size of megabanks.

Evidence backs up what has been abundantly clear in the last 2 years: Megabanks pose a greater risk and threat to our economy than smaller ones because of the heightened volatility of their assets and activities. Only 15 years ago, the largest six banks in the United States—their total assets were added up to be about 17 percent of GDP. Fifteen years ago, the combined assets of the six largest banks made up 17 percent of gross domestic product. Today, their combined assets make up about 63 percent of the GDP.

Our proposal would have limited the size of bank holding companies at \$1 trillion and investment banks at \$400 billion. Mr. President, \$1 trillion is \$1,000 billion. I can't believe people in