anybody confirmed to the Supreme Court will not sit on a case if they can't be impartial, or if their impartiality could even reasonably be questioned.

I thank the Senator for his leadership on the issue, and I am glad we had this colloquy. I hope we are going to get a complete answer from the nominee soon about any involvement she may have had explicitly, and then to perhaps also inquire further about to what extent she will be prepared to not participate if her impartiality can be questioned.

Mr. BARRASSO. If I can ask a final question. The final paragraph of this editorial that the Senator will introduce into the RECORD says:

As someone who hopes to influence the Court and the law for decades—

We are talking about an appointment that could last a lifetime, 30 or 40 years.

Ms. Kagan should not undermine public confidence in her fair-mindedness by sitting in judgment on such a controversial case that began when she was a senior government legal official.

It seems to me—and I ask the Senator at this time—where someone may be embarking on a long career on the Court, wanting to do the right thing and head in the right direction, that the best decision would be to recuse herself from this case as well, if she is confirmed, rather than get involved in it and potentially have an impact on her reputation for decades to come.

Mr. SESSIONS. I think that is correct. I appreciate the way the Wall Street Journal expressed that. I think that is a legitimate position. I hope the nominee will take very seriously those concerns and will respond promptly to the questions we have asked of her.

I ask unanimous consent that the Wall Street Journal editorial be printed in the RECORD.

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

[From the Wall Street Journal, July 13, 2010]

KAGAN AND OBAMACARE

Elena Kagan breezed through her recent confirmation hearings, but there's some crucial unfinished business the Senate should insist on before voting on her nomination to the Supreme Court. To wit, she ought to recuse herself from participating as a Justice in the looming legal challenges to ObamaCare.

In response to Senate queries, Ms. Kagan has said she'll recuse herself from participating in 11 cases on which she represented the government in her current job as Solicitor General. The challenge to ObamaCare isn't one of them, though the cases brought by Florida and 20 other states were filed in March, well before President Obama announced her nomination on May 10.

Ms. Kagan was never asked directly at her hearings about her role as SG regarding the healthcare lawsuits. The closest anyone came was this question from Oklahoma Republican Tom Coburn: ''Was there at any time—and I'm not asking what you expressed or anything else—was there at any time you were asked in your present position to express an opinion on the merits of the health-care bill?''

Ms. Kagan: ''There was not.''

Regarding a potential recusal, that's not the right question. Ms. Kagan was unlikely to have been consulted on the merits of health-care policy, and even if she did express an opinion on policy this would not be grounds for recusal. The legal precedents on that are clear.

Recusal arises as a matter of judicial ethics if as a government official she expressed an opinion on the merits of the health-care litigation. This is what she would have to render a judgment on were she to be confirmed for the High Court. It is also the question on which she is likely to have participated given her role at the Justice Department.

The SG is the third ranking official at Justice, and its senior expert on Constitutional issues, so it's hard to believe she wouldn't have been asked at least in passing about a Constitutional challenge brought by so many states. The debate about the suit was well underway in the papers and on TV. The matter surely must have come up at Attorney General Eric Holder's senior staff meetings, which the SG typically attends.

We doubt Ms. Kagan would have stayed mum about the cases in internal Justice councils on grounds that Mr. Obama might later nominate her to the Court. At the time the Florida suit was filed on March 23, she was only one of several potential nominees whose names were being floated by the White House.

Under federal law (28 U.S.C., 455(b)(3)), judges who have served in government must recuse themselves when they have ''participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy.''

Though their public chance has passed, Senators can still submit written questions to Ms. Kagan for the record. We hope someone asks her directly whether the legal challenges to ObamaCare ever arose in her presence at Justice, whether she was ever asked her views, and what she said or wrote about the cases.

We also think there are grounds for recusal based on her response during her Senate hearings on the substance of the state legal challenge. The Florida case boils down to whether Congress can compel individuals to buy health insurance under the Commerce Clause. Ms. Kagan danced around the history of Commerce Clause jurisprudence, but in one response to Senator Coburn she did betray a bias for a very expansive reading of Congress's power.

The Commerce Clause has ''been interpreted to apply to regulation of any instruments or instrumentalities or channels of commerce,'' she said, ''but it's also been applied to anything that would substantially affect interstate commerce.'' Anything? This is the core question in the Florida case. If she already believes that the Commerce Clause justifies anything that substantially affects interstate commerce, then she has all but prejudged the individual mandate question.

A federal judge is required by law to recuse himself ''in any proceeding in which his impartiality might reasonably be questioned.'' This has been interpreted to mean that the mere public expression of a legal opinion isn't disqualifying. But this is no routine case.

Ms. Kagan would sit as Mr. Obama's nominee on the nation's highest Court on a case of momentous Constitutional importance. If there is any chance that the public will perceive her to have prejudged the case, or rubber-stamped the views of the President who appointed her, she will damage her own credibility as a Justice and that of the entire Court.

As someone who hopes to influence the Court and the law for decades, Ms. Kagan should not undermine public confidence in her fair-mindedness by sitting in judgment on such a controversial case that began when she was a senior government legal official.

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

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

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

FINANCIAL REGULATORY REFORM

Mrs. MURRAY. Mr. President, I have been fighting hard for a Wall Street reform bill that protects my State's families, holds Wall Street accountable, and includes a guarantee that American taxpayers will never again have to pay to bail out Wall Street or to clean up after big banks' messes. I am proud to say that, finally, after months of hard work, we are so close now to passing legislation that does exactly that.

This should not be a partisan issue. It should not be about right versus left or Republican versus Democrat. It should be about doing what is right for our families and small business owners in my State of Washington and across the country. It should be about who it is we choose to stand up for and who we think needs our support right now.

Some people have spent the last few months standing up for Wall Street and big banks, trying to water down this reform, and fighting against any changes that would prevent the big banks from going back to their ''bonus as usual'' mentality.

I have been proud to stand with so many others to fight against the Wall Street lobbyists and special interest groups and stand up for the families I represent in Washington—families who want us to pass strong reform that cannot be ignored or sidestepped in the future, who want us to end bailouts and make sure Wall Street is held accountable for cleaning up their own messes, and who want us to put into place strong consumer protections to make sure big banks can never again take advantage of our families, our students, or our seniors.

For most Americans, this debate is not complex; it is pretty simple. It is not about derivatives or credit default swaps; it is about fundamental fairness. It is about making sure that we have good commonsense rules that work for our families and our small business owners. It is about the person who walks into a bank to sign up for a mortgage, or applies for a credit card, or starts planning their retirement. We want to make sure the rules are now on their side and not with the big banks on Wall Street.

For far too long the financial rules of the road have not favored the American people. Instead, they have favored big banks, credit card companies, and Wall Street. For too long, those people have abused the rules.

As we now approach this vote, I think it is important for all of us to be clear about who it is we are fighting for. I am fighting for people such as Devin Glaser, a school aide in Seattle, who told me that he had worked and saved his money and bought a condo before the recession began. He told me he put 20 percent down on a traditional mortgage and was making his payments. However, like a lot of people who found themselves underemployed as a result of this recession, Devin has been unable to find work for more than 25 hours a week. He told me he is now unable to pay his mortgage. He will be foreclosed on any day now.

I am also fighting for people such as Rob Hays, a Washington State student whose parents have put their retirement on hold and gone back to work in order to send him to school. A few short years ago, Rob's parents were in the process of selling their home and preparing to retire. But then the foreclosure crisis took hold and they could no longer find a buyer. As a result, they were forced to pay two mortgages with the money they had saved for Rob's school, and retirement was put on hold.

I am fighting for people such as Jude LaRene, a small business owner in Washington State, who told me that when the financial crisis hit, his line of credit was pulled. That forced him to lay off employees, go deep into debt on his personal credit card, and cut back on inventory—despite the fact that his toy stores were more popular than ever.

I am fighting for people such as Devon and Rob and Jude because they are the ones being forced to pay the price now for Wall Street's greed and irresponsibility.

Whether it was gambling with borrowed money from our pension funds, making bets they could not cover, or peddling mortgages to people they knew could never pay, Wall Street made reckless choices that have devastated a lot of working families.

In my home State of Washington, Wall Street's mistakes cost us over 150,000 jobs. They cost average families thousands of dollars in lost income.

They cost small businesses the access to credit they need to expand and hire and, in many cases, caused them to close.

They cost workers their retirement accounts they were counting on to carry them through their golden years and students the college savings that would help launch their college careers.

They cost homeowners the value of their most important financial asset as neighborhoods have been decimated by foreclosures.

They cost our schoolteachers and our police officers and all of our communities. And they cost our workers, such as Devon, our students, such as Rob, and our small business owners, such as Jude.

We owe it to people like them all across the country to reform this system that puts Wall Street before Main Street. We owe it to them to put their families back in control of their own finances. We owe it to them to make sure the rules that protect families sitting around the dinner table at night, balancing their checkbooks and finding ways to save for the future, not those sitting around the board room table finding ways to increase profits at the expense of hard-working Americans. To do that, we have to pass this strong Wall Street reform legislation.

It is important for families to understand what this bill does and what exactly opponents of this legislation are fighting against.

This bill contains explicit language guaranteeing that taxpayers will never again be responsible for bailing out Wall Street. It creates a brandnew Consumer Financial Protection Bureau that will protect our consumers from big bank ripoffs, end unfair fees, curb out-of-control credit card and mortgage rates, and be a new cop on the beat to safeguard consumers and protect their families.

It puts in place new restrictions for small businesses from unfair transaction fees that are imposed by credit card companies. It enforces limitations on excessive compensation for Wall Street executives. And it offers new tools to promote financial literacy and make sure our families have the knowledge to protect themselves and take personal responsibility for their finances.

I have heard so many stories from people across Washington State who have scrimped and saved and made the best with what they had but were devastated, through no fault of their own—people who played by the rules but who are now paying the price for those on Wall Street who did not. These are the people for whom we have to stand up, the people whose Main Street values I and so many others fight for every day.

With all of the new protections and reforms this bill contains for families and small businesses, one has to ask: Who are the opponents fighting for and who are they standing up to protect?

I grew up working at my dad's five-and-dime store on Main Street in Bothell, WA—actually on Main Street. Like a lot of people in the country, Main Street is where I got my values. I was taught by my dad that the product of your work was not just about the dollars in the till at the end of the day. I learned that a good transaction was one that was good for your business and good for your customer. I learned that strong customer service and lasting relationships often made your business much stronger; that personal responsibility meant owning up to your mistakes and making them right. I learned that one business relied on all the others on the same street.

I was taught that customers were not prey and businesses were not predators, and that an honest business was a successful one.

It is time for us to bring those Main Street values back to our financial system, to bring back an approach that puts Main Street and families over Wall Street and profits; that protects consumers, holds big banks accountable for their actions, and makes sure people such as Devon and Rob and Jude are never again forced to bear the burden for big banks' mistakes.

I urge my colleagues today to stand with us against the status quo and for this strong Wall Street reform bill that families and small businesses in Washington State and across the country desperately need.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I rise today to speak about the financial overregulation bill. The so-called financial reform bill before us is being sold to the American people as holding Wall Street accountable for the economic crisis that hurt every American family and business in every community across the Nation. We are told this bill will end ''too big to fail'' and prevent future bailouts.

Unfortunately, just as the stimulus bill was supposed to reduce unemployment and the health care bill was supposed to lower health care costs and reduce the deficit, this bill, too, will do the opposite of what is advertised. It will not prevent future bailouts. It will create another huge Federal bureaucracy; and instead of punishing Wall Street, it will punish Main Street and the families who suffered—not caused—the financial meltdown.

This bill was meant to rein in Wall Street. Yet the biggest supporters are Goldman Sachs and Citigroup, and the biggest opponents are community banks and small businesses in every city and town and community in the Nation. I think that tells us all we need to know about this bill. I urge my colleagues to listen to the folks at home, the people who have to make a living who are going to be burdened by it.

I strongly oppose cloture on this bill. Yes, there have been improvements made, and I worked with my colleague, Senator DODD, to make sure we did not devastate the venture capital area. Unfortunately, that is coming in another bill. But despite some of the progress we have made, the provisions most harmful to taxpayers, families, and small businesses still remain.

As a matter of fact, new provisions have been airdropped into the conference report that are so problematic that neither Chamber could agree to include them in either version. If we are truly committed to enacting real bipartisan reform, then the majority would never allow items that were never debated and voted on to be included in the bill.

I hope my Democratic colleagues will stand up for these principles about which they have talked so loudly and say no to this backroom practice of airdropping totally new concepts into the bill.

I wish to talk now about some of the most egregious provisions in the bill.

First, it is unbelievable and unacceptable that so many of my colleagues want to turn a blind eye to the government-sponsored enterprises, GSEs, that contributed to the financial meltdown by buying high-risk loans that banks made to people who could not afford them.

Everyone here knows what I am talking about. Despite this bill's 2,300 pages, it completely ignores the 900-pound gorilla in the room: the need to reform Fannie Mae and Freddie Mac, or the toxic twins as I not so fondly have to refer to them now.

The irresponsible actions by Fannie and Freddie turned the American dream into the American nightmare for too many families who have either had their homes foreclosed or who are hanging on by a thread.

The irresponsible actions, pushed by previous administrations on Fannie and Freddie, devastated neighborhoods and communities as property values diminished.

To add insult to injury, after Freddie and Fannie went belly up, it was the very Americans who suffered from their irresponsible actions who were left footing the bill.

As if that were not bad enough, unless we act now to reform the toxic twins, over the next 10 years Fannie and Freddie will cost the American taxpayers at least an additional $389 billion.

In the joy of the Christmas holiday last December, the administration took off the $400 billion limit on them. I have to ask: How much money do they think they can lose if $400 billion is not enough for them to lose?

What is in this bill to address this problem? Absolutely nothing. Zip. Zero.

Next, this bill lumps in the good guys with the bad guys and treats them all the same, particularly when it comes to derivatives.

Folks who are trying to manage and control costs are treated the same as folks who are spending and speculating in the market, making shady bets with money they did not have, making insurance bets on property they did not own.

This was described in the book, ''The Big Short,'' by Michael Lewis. These computer game derivatives, or insurance policies, were dreamed up by Wall Street geniuses, some who made billions, others who lost billions. The billions in losses almost destroyed our financial system and poisoned the world's financial system.

I have heard some folks say: Why do these bad practices mean something is going to happen to me? The way this bill is drafted, utility companies may not be able to lock in steady rates for their customers, leaving them instead at the whim of a volatile market. The utility companies will have to pay billions to Wall Street or Chicago to clear their normal long-term contracts and postcollateral with energy suppliers through clearinghouses run by big financial firms. That money will be immediately passed along to every consumer of power from that utility company. That is what utilities do—they pass it on to you and me as electricity or gas or other customers of theirs.

Mr. President, you and I and folks in every community across the country could pay higher costs every time we flip on the light switch or turn on the air conditioner or heat.

That means family farms may not be able to get long-term financing, forcing many to quit farming and prevent many from beginning to farm.

The Wall Street Journal today, in a front-page article headed ''Finance Overhaul Casts Long Shadow on the Plains'' tells how this bill will clobber folks in agricultural communities who have to have forward contracts. They never caused the problem, but it will tie up capital and make them pay tribute to big firms on Wall Street or Chicago. No wonder those big firms are for them. There is a lot of business for them, a lot of expense for the farmer, the commodity hauler trying to make a living.

I am stunned that any Senator in good conscience would vote for a bill that would increase costs for every American, especially at a time when working families are struggling to make ends meet. One thing is certain: This bill will enlarge government.

Today's Wall Street editorial opines that:

> Dodd-Frank, with its 2,300 pages, will unleash the biggest wave of new federal financial rulemaking in three generations. Whatever else this will do, it will not make lending cheaper or credit more readily available.

They go on to state that one law firm has estimated that the new law ''will require no fewer than 243 new formal rule-makings by 11 different agencies.''

What will be the effect? More lawyers, more bureaucracy, more taxpayer money, and more lawsuits.

Certainly, I cannot vote in good conscience for a bill that creates a massive new superbureaucracy with unprecedented authority to impose government mandates and micromanage any entity that extends credit.

We are not talking about the big guys—the Goldman Sachs and the AIGs. In the real world, we are talking about the community banks, small retailers, and even your dentist.

I talked with a lot of small businesses and listened to them. A lot of people were concerned this past week when I was home about what is going on in Washington. I was talking with a group in Maryville in northwest Missouri.

I said: The uncertainty is really a problem for small businesses.

One small businessman corrected me. He said: No, it's the certainty. We know what Washington has already done to the deficit, to the debt, to health care, what it is going to do to financial regulation, and what it is threatening to do to energy costs.

I asked everybody around the table: Should I have said ''certainty'' rather than ''uncertainty''?

They said: You certainly should.

Small businesses are not willing or able or even inclined to create jobs when this massive government rollout of spending, taxation, and regulation is coming down on them.

Let's not be naive. Any of the new costs as a result of new mandates and regulations, regardless of the entity on which they are imposed, will be passed down to the very people this bill claims to protect. Under the new, misnamed Consumer Financial Protection Bureau, or CFPB, the decisions on allocating credit will no longer be based on the safety and soundness requirement for healthy banks. Instead, by empowering this new superbureaucracy with unprecedented power, decisions on credit will be driven by the administration's political will and agenda. Politics will then decide how to allocate credit while operating outside the framework of safety and soundness, thus putting more risk back into the system when we were supposed to be taking risk out of the system.

This giant bill also contains a provision creating a new Office of Financial Research. You will get to know this one. It is given the authority to access personal financial information of any citizen in the United States. Well, I don't know about you, but I would prefer not to have a new bureaucracy rifling through my personal account information in an era of economic and electronic communications where fraud and identity theft run rampant. Ordinary Americans who did not cause the financial meltdown should not be punished and placed at risk because the government wishes to create this new, unnecessary office.

I could continue to list provision after provision, pointing out expansions of government and ill-intended policies that will create more uncertainty while failing to hit the objective of regulatory reform. However, this Chamber doesn't have the hours for my speech alone. I could say: Harsh letter to follow. If anybody wants to know, we will be happy to send them lots of chapters and lots of verses. But, much like the health care bill recently signed into law, I fear small businesses will soon learn of many more unintended consequences which have yet to be seen. Even the bill's sponsors admit that the bill's long reach will not be fully known until it is in place. Remember when the leader on the other side of this building said: If you want to find out what is in the bill, you will have to pass it. Well, in this bill, if you want to find out what it is going to do, unfortunately, you are going to find out if you pass it. I don't want to have my fingerprints on what is going to happen to businesses, to communities, and to jobs in the United States if it passes.

To sum it up, if the goal is to enact real reform that ensures we never, ever have another financial crisis like the one we had 18 months ago, the bill falls woefully short of that goal. It is light on reform, heavy on overreach and unintended consequences. Overall, this bill is too large, too costly for consumers, and would kill job creation at a time when working Americans need to be left to do what they do best, and that is succeed.

There is no doubt we need to protect every American from ever again falling victim to Wall Street gone wild. But what we do not want—and why this debate is so important—is to punish Americans for a crisis they didn't cause. Unless we scrap this failed version and start over, the Democrats' bill will do just that, and the costs will be paid by Main Street.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from today's Wall Street Journal to which I referred.

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

[From the Wall Street Journal]

THE UNCERTAINTY PRINCIPLE

So Republicans Scott Brown, Olympia Snowe and Susan Collins now say they'll provide the last crucial votes to get the Dodd-Frank financial reform through the Senate. Hmmm. Could this be Minority Leader Mitch McConnell's secret plan to take back the Senate, guaranteeing another year or two of regulatory and lending uncertainty and thus slower economic growth?

Probably not, but that still may be the practical effect. This week White House aides leaked to the press that President Obama may seek a review of regulations that are restraining business confidence and bank lending. Yet Dodd-Frank, with its 2,300 pages, will unleash the biggest wave of new federal financial rule-making in three generations. Whatever else this will do, it will not make lending cheaper or credit more readily available.

In a recent note to clients, the law firm of Davis Polk & Wardwell needed more than 150 pages merely to summarize the bureaucratic ecosystem created by Dodd-Frank. As the nearby table shows, the lawyers estimate that the law will require no fewer than 243 new formal rule-makings by 11 different federal agencies.

The SEC alone, whose regulatory failures did so much to contribute to the panic, will write 95 new rules. The new Bureau of Consumer Financial Protection will write 24, and the new Financial Stability Oversight Council will issue 56. These won't be one-page orders. The new rules will run into the hundreds if not thousands of pages in the Federal Register, laying out in detail what your neighborhood banker, hedge fund manager or derivatives trader can and cannot do.

As the Davis Polk wonks put it, "U.S. financial regulators will enter an intense period of rule-making over the next 6 to 18 months, and market participants will need to make strategic decisions in an environment of regulatory uncertainty." The lawyers needed 26 pages of flow charts merely to illustrate the timeline for implementing the new rules, the last of which will be phased in after a mere 12 years.

Because Congress abdicated its responsibility to set clear rules of the road, the lobbying will only grow more intense after the President signs Dodd-Frank. According to the attorneys, "The legislation is complicated and contains substantial ambiguities, many of which will not be resolved until regulations are adopted, and even then, many questions are likely to persist that will require consultation with the staffs of the various agencies involved."

In other words, the biggest financial players aren't being punished or reined in. The only certain result is that they are being summoned to a closer relationship with Washington in which the best lobbyists win, and smaller, younger firms almost always lose. New layers of regulation will deter lending at least in the near term, and they are sure to raise the cost of credit. Non-blue chip businesses will suffer the most as the financial industry tries to influence the writing of the rules while also figuring out how to make a buck in the new system.

The timing of Dodd-Frank could hardly be worse for the fragile recovery. A new survey by the Vistage consulting group of small and midsize company CEOs finds that "uncertainty" about the economy is by far the most significant business issue they face. Of the more than 1,600 CEOs surveyed, 87% said the federal government doesn't understand the challenges confronting American companies.

Believe it or not, Mr. Frank has already promised a follow-up bill to fix the mistakes Congress is making in this one. In a recent all-night rewrite session, he and Mr. Dodd made a particular mess of the derivatives provisions. They now say they didn't really mean to force billions of dollars in new collateral payments from industrial companies on existing contracts that present no systemic risk. But that's precisely what the regulators could demand under the current language, and the courts will ultimately decide when everyone sues after the new rules are issued.

Taxpayers might naturally ask why legislators don't simply draft a better bill now. But for Democrats the current and only priority is to pass something they can claim whacks the banks and which they can hail as another "achievement" to sell before the elections.

More remarkable is that a handful of Republicans are enabling this regulatory mess. Mr. Brown and Ms. Collins say they now favor Dodd-Frank because Congressional negotiators agreed to drop the bank tax. But lawmakers didn't drop the bank tax. They only altered the timing and manner of its collection. Instead of immediately assessing a tax on large financial companies to pay for future bailouts, the final version simply authorizes the bailouts to occur first. The money to pay for them will then be collected via a tax on the remaining firms.

Because this tax will be collected by the Federal Deposit Insurance Corporation, even opponents of the bill have viewed it as part of an insurance system. It isn't. Insurance is when you pay a premium and the insurance company agrees to replace your house if it burns down. A tax is when you pay the government and then the government decides which houses it wants to replace when there is a fire in the neighborhood.

Under Dodd-Frank, if Firm A pays to cover the cost of the last bailout, there's no guarantee that the FDIC will rescue its creditors if Firm A fails in the future. This is fundamentally different from traditional deposit insurance, which guarantees the same deal for every bank customer. Dodd-Frank allows the FDIC to discriminate among creditors at its discretion.

This transfer of wealth is a tax by any reasonable definition, borne by the customers, shareholders and employees of the companies ordered to pay it. Is this how Mr. Brown plans to reward the tea partiers who carried him to victory last winter in Massachusetts? Is this the key to a small business rebound in Maine?

A good definition of a bad law is one that its authors are rewriting even before they pass it. The only jobs Dodd-Frank will create are in Washington—and in law firms like Davis Polk.

Triumph of the Regulators—Estimate of new rule-makings under the Dodd-Frank financial reform by federal agency

Bureau of Consumer Financial Protection	24
CFTC	61
Financial Stability Oversight Council	56
FDIC	31
Federal Reserve	54
FTC	2
OCC	17
Office of Financial Research	4
SEC	95
Treasury	9
Total*	243

*The total eliminates double counting for joint rule-makings and this estimate only includes explicit rule-makings in the bill, and thus likely represents a significant underestimate.

Source: Davis Polk & Wardwell

Mr. BOND. Mr. President, I yield the floor.

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

Mr. UDALL of New Mexico. Mr. President, I ask unanimous consent to speak as in morning business.

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

The Senator from New Mexico is recognized.

Mr. UDALL of New Mexico. I thank the Chair.

(The remarks of Mr. UDALL of New Mexico pertaining to the submission of S. Res. 581 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. UDALL of New Mexico. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

Mrs. LINCOLN. Mr. President, I rise to voice my support for the Dodd-Frank Wall Street Reform Act. As the chairman of the Senate Agriculture Committee, I was fortunate to play a role in writing some of the most important reforms of this legislation, and that was the derivatives title. This historic legislation the Senate stands poised to approve will rein in the reckless Wall Street behavior that nearly destroyed our economy, hurting Arkansas small businesses and costing millions of Americans their jobs.

In 2008, our Nation's economy was on the brink of collapse. America was being held captive by a financial system that was so interconnected, so large, and so irresponsible that our economy and our way of life were about to be destroyed. I will never forget the sobering meetings at the Capitol with then-Treasury Secretary Hank Paulson and Federal Reserve Chairman Ben Bernanke, who informed us of the imminent collapse of the U.S. economy. Overnight, the United States of America—the most powerful economic power on the globe—had been brought to the brink of collapse.

Today, American families and small businesses are still managing the consequences of the reckless behavior that occurred on Wall Street and nearly led to our economic collapse. Congress has the duty to the people we represent and to future generations of Americans to ensure that this country's economic security is never again put in that kind of jeopardy. Failure to correct the mistakes of the past is simply unacceptable. That is why I am proud to say that today we stand poised to deliver the historic reform the American people deserve.

This legislation provides 100 percent transparency and accountability to our shattered financial markets and regulatory system. As chairman of the Senate Agriculture Committee, I was proud to help craft the bill's strong derivatives title. This legislation brings a $600 trillion unregulated derivatives market into the light of day, ending the days of Wall Street's backroom deals and putting this money back on Main Street where it belongs. In all of our communities across this Nation, these reforms will get banks back to the business of banking, protecting innocent depositors and ensuring taxpayers will never again have to foot the bill for risky Wall Street gambling.

After spending countless hours on this legislation and digging into the details of the derivatives world, I am here to reassure my colleagues and all Americans that this bill is strong, it is thoughtful, and it is groundbreaking reform that will fundamentally change our financial system for the better. We worked hard to ensure that it would.

It is important to reiterate that this reform is not regulation for regulation sake. It is surgical in its approach. We maintain an end-user exemption, promote restraints on the regulators, where necessary, and provisions that recognize we are competing in a global financial marketplace.

Over the next year, Congress will rely heavily on the regulators for their guidance and expertise as the rules and regulations are written for this legislation. As chairman of the Senate Agriculture Committee—one of the key committees of oversight—I pledge to be vigilant in this process and retain a watchful eye on those regulators. It is imperative that our vision of strong reform is implemented properly; that everyone should be doing their job—in the legislation we write, the regulations that need to be written to match that, and the oversight to ensure that balance continues. While the regulators must hold the financial system accountable for its actions, Congress must hold the regulators accountable, just as the voters hold us responsible for a lack of meaningful reform.

As the Senator from a rural State, I will also ensure that our community banks are able to continue to meet the lending needs of rural America and will not be subject to unintended consequences. Our community banks did not create this problem and should not have to shoulder the burden of paying for the solution.

America's consumers and businesses deserve strong reform that will ensure that the U.S. financial oversight system promotes and fosters the most honest, open, and reliable financial markets in the world. Our financial markets have long been the envy of the world. The time has come for our country to restore confidence to our shattered financial system. The time has come for us, the United States, to lead by example. We stand poised to deliver that reform today, and I look forward to final passage of this bill.

Finally, a bill of this complexity and importance requires perseverance and long hours, and the dedicated staff of the Senate deserves congratulations. I thank my colleagues, of course, Senator DODD and his staff, for their tremendous work. In particular, I would like to thank Ed Silverman, the Banking Committee staff director for his dedication to finishing this legislation. I would like to also thank Senator CHAMBLISS, my ranking member on the Senate Agriculture Committee, and his staff for their friendship and eyes and ears throughout this process; Senator REID and his staff, of course, for their leadership; and the administration and regulators for their extraordinary commitment to this reform bill; and certainly our House colleagues, Chairmen FRANK and PETERSON—particularly Chairman PETERSON of the House Agriculture Committee in particular, and their staffs, for their cooperation and leadership.

I also would like to thank my staff for their unbelievable hard work throughout this process. There were a lot of long nights, a lot of complicated issues, and a lot of dedication on their part to ensuring that what we produced was something that was good and solid for the future of this country, particularly Patrick McCarty, Cory Claussen, Brian Baenig, Julie Anna Potts, Matt Dunn, George Wilder, Courtney Rowe, and Robert Holifield on our Agriculture Committee staff, as well as Anna Taylor on my personal staff.

We have an enormous opportunity to do something that is going to move us forward, understanding that we never get things perfect but, more importantly, that we are willing to step to the plate and to do what we can to make our country strong again, to make our economy strong again, to bring confidence to consumers and investors in this Nation and globally in order to move ourselves forward—not just for ourselves but for future generations. I urge my colleagues to support this conference report, and I look forward to this legislation being signed into law.

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

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

Mr. CORKER. I wish to speak for a moment about the Dodd-Frank bill that we are going to vote on apparently tomorrow evening. I wanted to talk a little bit about politics, which is not my specialty, and then a little bit about the substance.

I know the Presiding Officer has been highly involved in this bill and made a positive contribution. I read recently comments made by our leader, the majority leader here, and the President, and actually the chairman of the Banking Committee regarding the fact that the reason the bill is the way it is is partisan politics, and basically insinuating that Republicans did not want to deal with a financial regulatory bill.

Nothing has disappointed me more than the fact that we have a bill that has basically ended up wrapping folks around the axle as they tried to get two or three votes on our side of the aisle to pass this bill. We had a tremendous opportunity to pass a bipartisan bill. We had a tremendous opportunity to pass a bill that would have shown the American people that we in this body have the ability to work together on big issues and solve problems. I think it is a shame we did not do that. I have to say, from my perspective—and I think I put as much time into this bill as anybody here in the Senate—it ended up being about partisan issues. There was an overreach on issues that had almost nothing to do—as a matter of fact, absolutely nothing to do—with this crisis, to advance some political agenda issues, and then, on the other hand, a total denial to deal with some of the core issues that got us in this situation. So I am disappointed.

We talk a lot. We have had groups come in, and they talk us to about how they want to see bipartisanship. Then some of us on both sides of the aisle step out from time to time to do that. When it happens, and a lot of effort is expended, and the end product is not achieved, for a lot of forces that exist around here, the very people that you end up reaching out to criticize the fact that we ended up with a partisan bill.

Yet, at the end of the day, let's face it, one side has the majority, one side has the minority. In this particular bill, I do not think there was, at the end, a valid attempt to do that. So I am disappointed. We have issues in this country as they relate to our financial system that do need to be addressed. No doubt, any bill of this magnitude, 2,300 pages, has some good things in it. There are good provisions in this 2,300-page bill. In many ways we punted most of the work to regulators. They are going to spend the next 10 to 18 months making rules that leave a lot of instability in our financial system at a time when I think people want to have a degree of certainty.

I think the Presiding Officer today tried to actually focus on greater certainty in some areas, and I might have disagreed with some of those. But the fact is, I think part of our job here in legislating is to create a degree of clarity.

One of the shortcomings of this bill is that—I think the count keeps going. I have heard a count of 363 rulemakings. I have heard a group come out and say there are 500 rulemakings. In essence, what we did with this bill in many ways is say to the very regulators who had the power, candidly, to do most of what is in this bill anyway, they had that power within their purview, did not do it, and kind of what we said is: Look, we would like for you to make rules.

So K Street and government relations folks are going to make a lot of money over the next 12 to 18 months as they now lobby regulators to sort of figure out what the rules of the road are going to be. In the process, again, jobs in the country will be more stagnant.

The other piece of this is that this all started with this sort of political agenda: We are going to bash Wall Street. Now Republicans have come out and said, no, this is a Wall Street bailout. So we had Democrats going to bash Wall Street, and Republicans saying, this is a Wall Street bailout. Candidly, I do not know that it is either one. The fact is, I think most folks on Wall Street like this bill.

As a matter of fact, I am looking at hedge fund managers right now, reading the Financial Times, many of the folks who probably are involved in the riskiest businesses are now out forming new hedge funds. Now they are moving to a more unregulated area than they were already in. So it is pretty fascinating how we create bills and we do not address the core issues, and then we have lots of unintended consequences along the way, as we are seeing play out right now.

I am not supporting this bill, which I had hoped to cosponsor. I am not supporting this bill out of partisanship; I am not supporting this bill because it misses the mark. This is not the worst bill that has ever been created. I am not going to say that. It is not. We just did not do our work. I mean, basically what we have done is, as I mentioned, we left it to regulators. We did not deal with some core issues.

I offered an amendment to deal with underwriting. At the end of the day, regardless of everything that people talk about at hieroglyphic levels, we had a lot of loans in this country that were written to people who could not pay them back. We did not have underwriting standards. We still do not have underwriting standards.

At the end of the day, we had two entities. I am not one of those who said, these entities were the core reason for the problem. But the fact is, we had two enablers, Fannie and Freddie, that, let's face it, what they do is they allow people to write bad mortgages, pool them together, and then they insure or purchase those. They were enablers. We have not dealt with that.

I do not support this legislation, not because it is the worst bill in the world. It is not. As a matter of fact, we do not even know what the outcome of this legislation is. It is interesting, I read the papers and they talk about the fact that this is a historical piece of legislation. We have no idea whether this bill is historical. We will not know for a long time until the regulators decide what they are going to do with this bill, because basically the power is left to a huge number of bureaucrats which, by the way, we have created, which is going to be like a malaise over our financial community because we did not give a lot of clear direction. We left it to regulators. We created a bureaucracy.

One other note. I think the issue that in many ways divided us—I know people on the other side of the aisle knew this well, refused to address it, although at one point we got very close and almost had a deal—was this issue of the Consumer Protection Agency.

I am all for consumer protection. I think the concern that I had as an individual is we have created a new entity. It has no board. It is an amazing thing. It has no board. Because of the standards against which the way this organization is judged as it relates to its rulemaking, which is expansive across the entire financial industry, because of the standard against which you have to challenge, there is no veto ability.

This new organization has a budget anywhere from, I think, $600 million to $1 billion a year, and the only way the Presiding Officer or I will know what direction this organization is going to take is who leads it. This is an incredible place for us to be, for us as a Congress to be. I think it is an incredible place for the administration to be, where we are creating an entity, a consumer financial protection organization, that has incredible rule-writing abilities, that has no board, no real veto ability, and yet on its own, one person—I am not talking about a group of people, but one person is going to decide the nature of what this organization is going to engage in. I find that incredible.

For all I know, the fears that I have about it, the fears I have about this organization, may not be borne out—may not be borne out.

I think the Presiding Officer very well may support this concept. He will never know whether his hopes for this organization are borne out until we know who the person is and what their bent and flavor is.

I think that, again, as a body we had a responsibility to put a balance in place so that we knew what the direction of this organization was going to be over time. I find that to be incredibly irresponsible.

As we look at this bill, I think one of the gauges of what it does is, we have the folks on Wall Street who rhetorically my friends on the other side of the aisle wanted to bash, and, candidly, all of America in many ways is upset with Wall Street is loving this bill. They have got teams of compliance officers who have the ability to deal with regulations a consumer protection agency might put out, all these rulemakings. As a matter of fact, typically when we regulate like this, it is the big guys who benefit, and they get bigger.

But the community banks, the smaller banks in my State, and I think across this country, are the ones that are concerned. I know we are all concerned about the employment activity in our country. All of us want to see the economy improve.

At the end of the day, most Americans have to deal with these smaller institutions. Most Americans want to deal with these smaller institutions. They are people they go to church with, they go to Rotary Club, they see at the grocery store. These are the people they have relationships with. What we are doing in this legislation is we are increasing the cost of capital that is available to most Americans, and we are limiting the amount of that increased cost—that capital is going to cost more—we are decreasing the availability.

So we are decreasing the availability of capital in communities across our country, and we are increasing the cost of that. So I find that it is an amazing place where we are. We all care about employment, and yet we put in place policies that are counter to that employment. So, again, I am disappointed in the outcome of this bill.

I have appreciated working with many Members on both sides of the aisle to come up with a balanced piece of legislation that will stand the test of time, a piece of legislation, by the way, that will actually deal with the core issues that created this financial crisis. This bill does not do that in every area. It does in some. I want to say that some of the derivatives—clearing houses, I think that is a good contribution. Again, I think we have got end users out across our country now who are panic stricken, farmers and others, who use derivatives in their daily lives. And now maybe—we do not know because regulators will decide down the road. We punted that. We said, we will let the regulators decide. So for a period of time, they are going to be concerned about whether they are able to put up their tractors and barns and other things as collateral against derivatives or be in a more risky position.

We have missed the mark. I realize that, ironically, after a year of work, 2,300 pages, hundreds and hundreds of rules that are getting ready to be generated by regulators. It is my understanding there is now already another bill coming to correct this bill. That is pretty amazing to me.

I wish to say that politics ends up overcoming substance, I have seen as bills come to the floor. We had an opportunity which we missed to try to get this bill right in a bipartisan way. In spite of the fact that I am disappointed I cannot support this legislation strictly on policy grounds, I do want to say that our staff and our office is going to continue to be engaged with others. I know there is going to be a lot of other activity as a result of this bill, some of the unintended consequences, some of the mistakes that have been made and some of the glaring omissions we did not deal with, things such as—it is hard for me to believe that we would not take the time to upgrade our Bankruptcy Code so that a large entity that fails goes through some of the same things the same entity in Minnesota might go through. It is amazing to me that we did not do that work. But we still have an opportunity.

I know the Presiding Officers have now changed. I know the Presiding Officer sitting here today is on the Judiciary Committee. I also know that over the course of the next year or two we will have the opportunity to work on that and try to develop something so that when a large, highly complex financial entity fails, there is actually a sort of standard they go through when they fail that people understand, and they understand the bankruptcy stats, they understand what their rights are going to be.

There is a lot of work left to be done. I am disappointed in where we are and what we are going to be voting on tomorrow night.

I cannot support it, but I do look forward to working with my colleagues on changes that will have to be made, on the unintended consequences this bill will create and, obviously, the many technical changes that will result because of the fact that we rushed our work.

This process began mostly about substance. A lot of people put a lot of time into trying to understand substance. I know the Presiding Officer focused on one particular issue and tried to offer some substance in that regard. At the end of the day, politics took over.

November is approaching. It would be nice in the eyes of some people to have a 60-, 61-vote bill. Some are said to like obstruction. I can tell my colleagues, nothing could be further from the truth, especially on this piece of legislation.

What I regret most is, I know this bill is going to have the unintended consequence of hurting Tennesseans, hurting people from Oregon and Minnesota and around the country. There is no question that with all that we have laid out in these 2,300 pages, there will be less credit available and the credit that is available will cost more money. What we really have done with this bill is hurt the average American.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MERKLEY. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MERKLEY. I ask unanimous consent to speak as in morning business.

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

Mr. MERKLEY. Mr. President, I rise to address the Dodd-Frank financial reform bill and to share the reasons it makes a great deal of sense to restore the lane markers and traffic signals to our financial system—lane markers and traffic signals that were ripped away carelessly, thoughtlessly over the course of a decade and led to the economic house of cards that melted down last year, doing enormous damage to America's working families. There may be many in the financial world who feel pretty good about the most recent billion-dollar quarterly profits or million-dollar bonuses, but families in America's working world are not feeling so good. They are looking at their retirement savings being decimated. They look at the value of their house and realize it is worth less than it was 6 years ago. For many families, the amount they owe on the house is more than it is now worth. Families are looking at lost jobs and lost health care that went with those jobs. They are looking at an economy that struggling to recover, that is providing them few opportunities to get back on their feet.

The meltdown triggered by the economic house of cards built up over the last decade is enormous. It is not only the damage done to families, it is the damage done to the economy as a whole. We cannot talk to any room with owners of small businesses and not hear stories about frozen lending, about credit lines cut in half, about opportunities to expand a business, but, despite a regular banking relationship extended over a decade, that bank cannot now extend the loans that would enable them to seize that opportunity to create jobs. We still have massive disruption in our securities market that provides the credit that fuels not only home mortgages but many other parts of the economy.

This economic meltdown has been a huge factor in contributing to the national debt. In every possible way, the absence of responsible lane markers and traffic signals has wreaked havoc on the American family and the American economy. We are here now to set that straight, to restore those lane markers and traffic signals.

What really happened? It can be summed up in two words: irresponsible deregulation. Let's get into the details a bit further. Let's start with irresponsible deregulation that led to new predatory mortgage practices. One of those practices was liar loans, loans in which the loan officer was making up the numbers and putting them in because they knew they could turn around and sell that loan to Wall Street and have no responsibility for whether that family succeeded in making the payments.

Another predatory practice was steering payments—mortgage originators getting paid huge bonuses to sign people up for mortgages that had in the fine print hidden exploding interest rates, so the family could easily make the payments at 5 percent, but when that hidden language triggered 9 percent, there was no way the family was going to be able to make those loan payments. Since most of those were on a 2-year delay, we can think of it as a 2-year fuse, a ticking timebomb, a ticking mortgage timebomb that was going to go off and destroy that family's finances. Then the prepayment penalty that locked people into those loans. These retail mortgage practices resulted in irresponsible deregulation.

Then we had the securities that were made from those bad mortgages by financial firms, packaging those bad mortgages, putting a shiny wrapper on them, and then selling them with AAA ratings to financial institutions, to pension funds, to investment houses, tossing those mortgage securities hither and yon without full disclosure. When those mortgages that were in those packages went bad, those securities were going to go bad. That is what happened in 2008 and 2009. It melted down this economy.

Another piece was the irresponsible deregulation lifting leverage requirements on the largest investment houses. Bear Sterns in a single year went from 20-to-1 leverage to 40-to-1 leverage. That means they were going to make a lot more money when everything is going up, but it means the moment things turn down, they can't cover their bets and they are going to go out of business.

Then we had credit default swaps. That is a fancy term for insurance on the success of a bond. That new insurance was issued by AIG without any collateral being set aside to cover the insurance—complete failure to deregulate this new product. Those insurance policies, those credit default policies created an interwoven web in which if one firm failed and couldn't pay off its responsibilities under the credit default swaps or insurance policies, then the firm that it owed was going to fail. It set up a web of potential collapse.

Those are the types of dramatic issues created through irresponsible deregulation that we must address in this body and that are addressed in the Dodd-Frank financial reform bill.

First, the bill ends those three predatory mortgage practices I spoke of. It ends liar loans. It creates underwriting standards. My colleague from Tennessee mentioned he would like to see underwriting standards in this bill. They actually are in the bill. That is a very important part of this legislation. This bill ends the steering payments, the bonuses paid to mortgage originators to basically guide people into tricky mortgages with hidden exploding interest rate clauses. This bill stops prepayment penalties that were used to lock families in. If you are in a mortgage and you have to pay several pounds of flesh to get out of that mortgage—and by that, I mean perhaps 10 percent of the value of your house—where is that 10 percent coming from? You can't do it, so you are locked in. You are chained to the steering wheel of a car going over a cliff. We have gotten rid of that practice.

The second main thing we have done is establish real-time consumer protection to end scams and tricks and traps in financial documents. There was a woman from Salem, OR, who wrote to me. She wanted to share her story, just one of the little pieces of malfeasance that had occurred. She had paid her credit card bill on a timely basis month after month, year after year. She was very surprised when she received a letter saying she had a late payment and owed a fee. So she called up the credit card company and said: How can this be? I always pay on time.

The person on the other end said: Yes, we received your payment, as you indicated. But your contract says we don't have to post your payment for 10 days, and so we didn't post your payment right away. We posted it at the end of that 10-day period. At the end of the 10-day period, your payment was late. So you owe us this fee. It is all in your contract.

She said: How can that be fair?

That is why we need a consumer protection agency for citizens across the country. Members know what I am talking about because virtually every one of us has opened up a statement and gone: Wait, how can that be fair? We did have the delegation of consumer protection responsibilities to the Fed, but the Fed had its monetary mission in the penthouse of their office building. They had safety and soundness on the upper floors, but they put consumer protection down in the basement. They ignored it. They didn't act on the responsibilities they had. So we put those responsibilities in an organization, a Consumer Financial Protection Bureau that has a single mission—not a third mission or a fourth mission, not a forgotten mission, not a mission we put in the basement, but a first mission—so that Americans can choose from responsible financial products, not ones that compete to see who can have the biggest scam, the biggest deception, the biggest trick or the biggest trap but instead can compete on the cost of the product and on the quality of the service.

The third thing this bill does is redirects banks to the mission of providing loans to families and small businesses. This is the core function of the banking world. What happened over the last few years is some of our banks said: It is a lot more fun to bet on high-risk investments than it is to make loans to families and businesses. But that is not the mission of the banks that have access to the Fed window for discounted funds from the Federal Reserve. That is not the mission of the banks that we insure their deposits. The function of those banks is to make sure there is liquidity in the hands of our businesses so they can thrive and so families can thrive. This bill redirects them to that mission.

Let me put it this way: High-risk investing is a little bit like high-speed car racing.

You know as you watch cars going around the race track they are going to push the boundaries, the limits of speed and traction, and they are going to do quite well. They are going to try to nudge ahead of the rest of the cars. But then, eventually, one is going to hit some rubber on the track or some oil or some gravel or get bumped by another car and the race car is going to crash.

When you go to the track, you pretty well know in advance you are going to see a car crash. That is the way it is with investment houses. They are competing with each other to find the best opportunities for the highest return, so we know they are going to crash—that some of them will—and we accept that. This is an important role in the formation, aggregation, allocation of capital. But we want them to crash on the race track, not to crash out on the streets of the city or the streets of the countryside. That is why this bill moves high-risk investing out of the banks that should be dedicated to the mission of providing loans to small businesses and families.

Another key thing this bill does is restore integrity in the formation of securities. Let me put it to you this way. Imagine that an electrician comes to your house because you are asking that electrician to wire up your basement. The electrician leaves, and you find out he or she took out a fire policy on your house. I think you might be a little worried about the quality of the wiring that was done in your basement.

Or consider this possibility: You buy a car and you find out the person who sold you the car took out a life insurance policy on you. Well, you do not like the idea, I do not like the idea, of the possibility that someone would sell a car that is defective so they can take out a life insurance policy and maybe cash in.

Yet that was what was happening with securities: companies taking bad loans, putting them in a shiny wrapper, selling them, and then taking out an insurance policy—a credit default swap—so when that security went bad they could cash in.

Well, we need to have a level of integrity in the formation of our securities or our bonds. This bill takes us in that direction. This bill puts the sale of swaps on organized markets. What are swaps? Again, they are insurance policies, based on interest rates; insurance policies, based on exchange rates; insurance policies, based on the success of securities.

You cannot sell insurance to the general public without setting aside reserves, but these swaps were sold without reserves. So this bill before us today says reserves are necessary so the bet can be covered if the event you are insuring should happen.

It also creates a market for them so the customer—that is normally a business that wants to hedge its interest rate risk or its exchange risk or its investments in securities, that wants to hedge and protect itself against the possibility that those will go down or change—they can get that at a much better price when they can do so through the power of a transparent, organized market.

So being able to hedge risk at a much cheaper price is a huge contribution to the formation and allocation of capital in our country.

Finally, this bill allows a systematic way to dismantle failing firms in the financial world so it minimizes systemic risk and so the industry itself picks up the cost of their failure, so we the taxpayers are not in a position of having to pick up that cost.

I know some of my colleagues on the other side have simply asserted the opposite to try to confuse the issue. Well, I think that is irresponsible because so much was done in this bill to make sure American taxpayers are never again on the hook for the failure of financial firms in our Nation. This is the type of responsible lane markers and traffic signals we need in our system.

Certainly every one of us here believes there are further strides that could be made. There are standards in this bill that I would like to have crisper. There are terms for which I know we will need fierce, vigilant regulation to make sure those terms are not expanded into loopholes.

This bill does not do as much as I would like to address the issue of perverse incentives in the system of rating securities, something the Presiding Officer was a huge advocate for, and put forward a terrific policy to address. We are going to have to keep working on that piece.

But in each of these areas I have described, this is a quantum improvement. I think colleagues on both sides of the aisle know that. So beware of efforts to confuse the debate trying to say what is north is south and what is east is west.

So these are the reasons—these core improvements to our financial system that enhance the ability to aggregate and allocate capital efficiently—why I am supporting this bill. I applaud the chairman of the Banking Committee, who steered this bill through enormous sets of obstacles. It is reported that Wall Street hired 1,000 extra lobbyists to try to torpedo the bill that is before us. That is a lot of obstacles to get through.

These are complex issues that required thoughtful analysis and had to be worked and reworked. So I applaud the chairman's work in taking us to this point where we are prepared to send this bill on to the President's desk.

I would like to particularly thank my colleague, Carl Levin, who teamed up to work with me on a proposal to take high-risk investing out of the bank holding companies and to improve the integrity of bonds. That was work that came straight out of the committee work he did in such a capable and timely fashion.

So with that, I conclude by saying we need a financial system that is not about quarterly profit margins on Wall Street, that is not about the size of bonuses on Wall Street but is about providing a foundation for business to thrive, for employment to be increased, for families to find work, and to build financial foundations for the success of those families over the next several decades. That is the type of financial foundation we need, and this bill certainly is a huge stride in accomplishing that.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I will not take long at this moment. I just want to compliment our colleague from Oregon—as well as other members of the committee—for his work on this historic piece of legislation. This was a long time in putting together a comprehensive, complicated piece of legislation dealing with financial reform. There are many people who deserve credit for the product of this legislation, not the least of which is Senator MERKLEY of Oregon, a new Member to this body but a very active and vibrant member of the Banking Committee who added substantially to the product that is now before us.

So I appreciate having the opportunity to hear his observations about the bill and look forward to further comments today and tomorrow by others on this product. At a later point today, we will go into greater length about the bill. But I would urge my colleagues to support this legislation. I am very grateful to all who have been involved—both Democrats and Republicans—in trying to make this as strong and as good a bill as we possibly could.

I have listened with some interest today to the comments of others about this legislation, with some amusement, I might add, in terms of observations about how we got to where we did. But, nonetheless, that is the nature of this institution, I suppose.

With that, I again thank Senator MERKLEY for his fine work.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

INVESTING IN AMERICA

Mr. VOINOVICH. Mr. President, I rise today to discuss the state of unemployment in our country and what we need to do to finally create sustainable jobs and grow our economy.

The unemployment rate currently stands at 9.5 percent nationally and in my State 10.7 percent. Clearly, something has to be done about this. It appears that the new Senator we are expecting from the State of West Virginia may be the deciding factor when we vote later this month to begin addressing this problem.

First, I think we need to understand that we need to instill certainty into the economy by providing relief to the segment of our fellow citizens who cannot find work. Because of the downturn in the economy, I have already voted multiple times to extend unemployment insurance from the standard 26 weeks to 99 weeks, amounting to tens of billions of dollars. But this emergency extension has now expired, leaving many without the benefits they need to stay afloat. So let's extend unemployment insurance once again. Resuming this emergency program through November 30 will cost about $33 billion, and I believe we should pay for at least half of it from the stimulus funds.

Just before the recess, I supported an unemployment insurance extension that was fully paid for, but my Democratic colleagues blocked that amendment offered by Senator JOHN THUNE, preferring instead to continually borrow money on the credit card of our children and grandchildren. Last year, we borrowed $1.4 trillion. That means we borrowed 41 cents of every dollar we spent last year. Over half of this debt is held by foreign investors. By the end of this year, our national debt will be a staggering $13.8 trillion. That is an almost $2 trillion increase in 1 year. As the book of Proverbs tells us in chapter 7, verse 22, ''The rich rule over the poor and the borrower is the servant of the lender.''

America must address its debt and stop borrowing money from countries such as China and others that don't have our best interests at heart. We just can't keep kicking the can down the road. Our national debt is one of the most important problems we face, and our failure to begin to address the fiscal crisis will damage our economy, our national security, and the kind of future we leave to our children and grandchildren.

Still, I know Ohioans are hurting, so I approached the majority leader and told him I would provide the vote he needed to extend unemployment insurance if the Democrats were willing to use some of the estimated $40 billion unspent stimulus money to help offset at least half of the stand-alone unemployment insurance extension. He rejected my offer but remained at the table on what I considered to be a fair and simple bill: Extend the unemployment benefits and pay for half of it.

So I say to my friends on the other side of the aisle, let's get it done. Let's extend UI benefits in a bipartisan manner and pay for at least half with stimulus funds. I am confident we could get 60 votes for that tomorrow.

Second, I know most people in America would rather have a job than collect unemployment insurance. They would rather have a job than collect unemployment insurance. But my concern is that not enough is being done by this administration—or by Congress, for that matter—to put people back to work or create an environment where businesses have enough confidence in the future to unleash a corporate, private sector stimulus.

I wish to quote from a current Newsweek article by Fareed Zakaria entitled ''Obama's CEO Problem. He needs business on his side now.''

I ask unanimous consent to have this article printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. VOINOVICH. He says the following:

> Actually, there is a second stimulus, one that could have a dramatic effect on the economy—even more so than government spending. And it won't add to the deficit.

He goes on:

> The Federal Reserve recently reported that America's 500 largest nonfinancial companies have accumulated an astonishing $1.8 trillion in cash on their balance sheets . . . and yet, most corporations are not spending this money on new plants, equipment, or workers. Were they to loosen their purse strings, hundreds of billions of dollars would start pouring into the economy. And these investments would likely have greater effect and staying power than any government stimulus.