Today, the promises we made to veterans should be our top priority. At some point in time, it may make sense to add another half a billion dollars for this medical treatment that has been proposed by my colleagues on the other side of the aisle but not until we are absolutely certain that the promises we have already made are going to be fulfilled. That is all we attempted to do today.

In some respects, I regret that my colleagues on the other side of the aisle considered it political. I don't consider it political. I don't think it is political when you are trying to live within your means or making sure the policies you are implementing actually work the way you intended or when you are actually spending money over the next year or two versus 10 years from now. I think that is responsible government.

The gimmicks and the old rhetoric in this Chamber need to stop. We need to start focusing on fulfilling promises first and foremost to the men and women who have served our country bravely and defended our freedom. That is what my proposed amendments were about, and that is what they will be about if this measure ever comes up again because if I can fulfill no other promise, my promise to the men and women who have served this Nation will be paramount in all the things I do in my service here over the next 5½ years in the U.S. Senate. This was a threat to my being able to fulfill that promise, and I am glad we are going to be able to move on.

I thank the Chair.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

DODD-FRANK REGULATIONS

Mr. LANKFORD. Mr. President, I come to the floor with a happy birthday message today. I come with wishes for a happy birthday for the fifth birthday of the Dodd-Frank regulations.

Where are we as a nation with this wonderful 5-year-old running around our Nation right now, pushing out birthday cake across every bank and financial institution across the country? Exactly how is that going?

Let me share a couple of things. Everyone in this Nation remembers extremely well 2008 and the financial collapse that happened. We remember Lehman Brothers closing down and causing panic. We remember Fannie and Freddie rules finally reaping the consequences of what the Nation assumed would happen at some point from all of these very low rates and from encouraging people to buy who can't afford to pay back a loan. We knew what would occur. The rise of a conversation, something called too big to fail that we had never heard before, suddenly grows up, and we move as a nation in 2009 from trying to regulate financial institutions to actually running financial institutions. The regulations were considered too small, and for institutions that were big, it was determined that Big Business means Big Government needs to run it.

I would have to say there is not a lot about the efficiency of Washington, DC, that we would look across the fruited plain and say this is working so well in Washington, DC, we should run every big company as well. In the days of government shutdowns and $18 trillion of debt and slow decisionmaking, there is a great need for private businesses to be pushed to be able to do things efficiently, to be able to manage our economy effectively. Clearly, there is a need for regulations, but I would also say that, clearly, the U.S. Government should not step into businesses and run them instead of just regulating the boundaries.

This is a free market, but sadly, in 2009, the U.S. Government went to running General Motors. We started running individual banks and insurance companies. We have to be able to shift out of that and we have to be able to find a way in the days ahead for that never to occur again.

I would say multiple things about this. Now, 5 years into Dodd-Frank, 400 new rules in the process of being promulgated, literally 12,500 pages of regulations that have now been spun out—12,500 pages of regulations—just dealing with 271 rulemakings.

So here is what we are up against: 271 rulemaking deadlines have passed. Of those, 192 of them have been met with finalized rules, and rules have been proposed that would meet 46 more. Rules have not yet been proposed to meet 33 passed rulemaking requirements. Of the 390 total rulemaking requirements, 247 of them have been met with finalized rules, and rules have been proposed that would meet 60 more. What am I trying to say with all of that? There is a lot coming out of this, and there is a lot more still to come.

I would challenge any person in this Chamber and any person across America that if you are having to run your business, and if as you started to run your business and a government regulator walked in with 12,500 pages and said, I need someone in your company to know all of these regulations, you would not respond with a smile and wish them a happy birthday. You would respond with great frustration and say: Why are you walking into my company with 12,500 pages of new regulations? Now, there are previous regulations this is stacked on top of. They say here is an additional stack of 12,500 pages that you need to know and follow.

This is the fruit of the Dodd-Frank regulations. I would say there are a lot of things we need to discuss with this bill, but let me just highlight a few of those. First, let's get some common agreement. Can we all agree the community banks, the smallest banks across America—most of them in rural communities—did not cause the financial collapse in 2008? In fact, they didn't even contribute to the financial collapse in 2008. The smallest community banks across the country are vital accesses to capital for farmers, small businesses, Main Street folks, and folks who just do deposits to their savings and checking accounts. These are small community banks. For more than 1,200 U.S. counties, with a combined population of 16 million Americans, without those community banks, they would be severely limited to any kind of access to banking. Big banks tend to focus on the biggest loans and in big towns. Small community and traditional banks focus on smaller communities. In my State of Oklahoma, a person can go to every small town and find a school, a gas station, a church, and a bank, and often that bank is a very small community bank. They know everybody in town and everybody knows them. But the rules changed for them after Dodd-Frank, and it wasn't because that bank caused anything.

Regardless of the law's merit in any area—and we can have a great conversation about a lot of issues with Dodd-Frank—financial reform was to contain the systemic risk in the financial sector of very large companies, which were called the too big to fail, which I refer to often as the ''too big to be free now,'' because the Federal Government is stepping in to try to run all of these companies and say: You can't have a free market in that area; we are going to have to run you instead.

But these small bank failures are not a threat to the economy. They weren't supposed to be a target of Dodd-Frank, but they most certainly are. All of these banks now suffer the consequences. A study by the Federal Reserve Bank of Minneapolis found that for banks that have less than $50 million in assets, hiring two additional personnel reduces their profitability by 45 basis points, resulting in one-third of these banks becoming unprofitable. Why would I raise that? Because there are a whole host of regulators who say just hire one or two additional compliance people, and you can keep up with the 12,500 additional pages that have been rolled out. These small community banks can't keep up with that. The Mercatus Center surveyed 200 banks with less than $10 billion in assets, and 83 percent found that their regulatory compliance costs increased by more than 5 percent, and the median number of compliance staff increased from one to two. They all had to add additional folks—not additional folks to make more loans, not additional folks to greet more customers as they walk in the door, additional folks in the back office simply filling out forms and turning them in.

Government figures indicate that the country is losing, on average, one community bank or credit union a day now. Alternatively, in the last 5 years, regulators have only approved 1 new bank, as opposed to an average of 170 banks per year before 2010. Let me run that past my colleagues again. We have approved one new bank in the last 5 years since Dodd-Frank. People don't want to go into banking. This is having the effect we all said it would have; that is, when Dodd-Frank passed, the focus on too big to fail would really mean that you are too small to succeed; that the smallest banks and communities all across the country now cannot keep up with the compliance costs and they will sell out to larger and larger banks. Do my colleagues know what Dodd-Frank has created? Dodd-Frank has created more megabanks and it is pushing more and more smaller banks to sell out.

Since the end of the first quarter in 2010, Oklahoma—my State—has seen 33 community banks disappear through acquisition or merger—33 of them. Twenty-nine of those thirty-three community banks that disappeared were under $100 million in total assets. When asked, the most frequent reason they were selling, they said it was the increasing cost of compliance. They could not keep up because they had to have so many compliance people.

In Oklahoma, 24 percent of the State's commercial banks no longer offer real estate mortgage loans to their customers because of the litigation and regulatory risks they face under the new ability to repay and qualified mortgage rules. Let me run that past my colleagues again because a lot of people don't realize what is happening. The smallest community banks are selling out. They are disappearing. At the same time, 24 percent of the banks in my State no longer offer home loans. That means in these small towns across America, you can't walk into the bank and get a home loan. People have to drive to some other town or go to some other place to try to get a home loan now. It is not because that bank can't do a home loan—they are a bank, that is what they do—it is because of new Dodd-Frank regulations that make them so scared to function and operate through the 12,500 pages they have just decided they don't have enough staff and enough people. The banker says to himself: I sold my neighbor a home, his dad a home, and maybe his grandfather a home in this community. I can no longer do a mortgage for them. That is absurd.

I hope no one would say that was the purpose of Dodd-Frank, but I will tell you this 5-year-old who is running around, these are the consequences. This is happening all across our Nation. These new rules continue to push out the possibility of just doing normal, traditional banking, including savings accounts, checking accounts, home loans, car loans.

Dodd-Frank, ironically, favors the largest banks over community banks. I find that the ultimate irony, based on the way it was sold, not to mention the fact that as a banker now, if you have a problem with one of the regulators and you want to appeal and say: How are we going to actually get through this problem—do my colleagues know whom they appeal to now? Literally, a person in the next cubicle from the previous person who gave the instructions. There is no place they can go. There is no judicial review. There is no opportunity to say this regulation that you have given me is onerous or the decision you have made based on this regulation is onerous. If you want to disagree, you disagree with the person in the next cubicle, and then that same group of people will come and inspect your bank next year. And what do my colleagues think happens?

I have to say we are in a bad spot. This is not about big city bankers. This is about small towns. This is about small town loans. This is about home loans for individuals in rural areas, and these are real consequences to a lot of families. So how do we solve this now? This is what we have—and we have had for 5 years—and it still continues to grow; it still continues to get worse.

What happens now? Let me just talk about some solutions. No. 1, I would say this. We have to deal with one of the big animals in the middle of the creation of Dodd-Frank; that is, the Consumer Federal Protection Bureau. The CFPB was created to be like a fourth branch of government. It is completely autonomous. Its funding comes from the Federal Reserve. It does not have to report to Congress, none of the staff have to report to Congress or turn anything over. There is no requirement for transparency. They only, in a cursory manner, come by and visit Congress every quarter or so and do a report, but they are not required to turn over everything.

They have access to every piece of every bit of consumer finance. They are reaching in to do car loans, they are reaching into credit cards, they are reaching into home loans. They can reach in, in effect, and create regulations in any area they choose to with no accountability. We have to be able to resolve this—not to mention the fact that CFPB is completely redundant to other agencies that already existed in this oversight, and this adds yet another layer on every bank and on every consumer financial institution. But they are unaccountable.

So let's do a couple basic things. One of the proposals that came out from the Appropriations Committee today is to move from there being one Director to a five-member board. This Senator would say that is pretty reasonable, so that we don't have one person managing all consumer finance for the entire country—one person who is completely unaccountable.

Separating them from their appropriations rather than getting their appropriations from the Federal Reserve, getting their appropriations directly from the normal appropriations process like every other agency, including independent agencies—there is no reason to have them be isolated and separate.

Quite frankly, the CFPB is completely redundant to all other areas. There is no reason for them to have redundant activities and authorities. Those should be cleared as well to make sure that every bank, when it is making a decision, can make a decision based on knowing whom its regulator is, not thinking "This regulator is going to say one thing, but what is the CFPB going to say when they come in next?" and not having a regulator come in and say "Well, this is not our regulation, but the CFPB has put this regulation down, and so we are going to follow their regulations as well." That is absurd. Clear lines of authorities and responsibilities should be delineated. We can do that. It shouldn't be hard, and it shouldn't even be controversial.

Secondly, we need to reform Fannie and Freddie. Community banks did not cause the problems in 2008; quite frankly, Fannie and Freddie did. Community banks have had this major pushdown of 12,500 pages of regulations. Guess how much reform has happened at Fannie and Freddie? Zero. So the organizations that actually were the problem have gotten off scot-free because now they are making money again and everyone is looking the other way and saying "Well, they are doing OK; we will leave them alone," while the organizations that didn't cause the problems face tons of regulations. There are major reforms that need to happen with Fannie and Freddie. It is about time this Congress actually engaged and stopped saying: You know what, they are in the black. Let's leave them alone.

Do you realize that the government funds 71 percent of new mortgages now through the GSEs and the Federal Housing Administration compared to 32 percent just 10 years ago? Let me repeat that. Ten years ago, the Federal taxpayer backed 32 percent of the loans, and now it is 71 percent.

Dodd-Frank was supposed to be about trying to get the too-big-to-fail issue out of the way and to get the Federal taxpayer out of having to back up every loan and every business across America. Instead, it is increasing the size of banks and it is increasing the exposure of every mortgage in America to the Federal taxpayer. We have to turn that around.

No. 3, Congress has to provide the authority for Federal banking regulators to differentiate the applicability of rules and regulations to various banks based on the bank's operating model and risk profile. If it is a traditional bank, leave it alone; it is a traditional community bank.

In fact, FDIC Commissioner Tom Hoenig had a great plan and a great set of ideas that I would bring to this body and say we should seriously consider; that is, separate banks not based on their size but on their activity. If it is a traditional bank doing traditional banking, that would mean a couple of things—first, that it has at least 10 percent capitalization, and second would be that it is not involved in complicated derivatives. If it is involved in complicated derivatives, it is going to have very heavy oversight. If it is not, it is a traditional bank and it is well-capitalized. Banking regulations have always been about safety and soundness. If this bank is well-capitalized and not involved in complicated derivatives, why are we there every day trying to manage every aspect of it? Allow it to be a traditional bank. I don't care how big it grows if it is in traditional banking models.

We literally have banks around the country now that are right at about $10 billion in size that are worried they can't get any bigger. We literally have businesses saying: I can't grow because if I grow, I will spring into a whole new set of regulations, and I can't afford more staff to actually do that. This is silly. If it is a traditional bank and it is in good safety and soundness, let it do loans. Let the bank actually engage with its customers in its community and not have to look over its shoulders all the time.

Chairman SHELBY has actually laid out a proposal in the Federal Financial Regulatory Improvement Act. It is a great place to start, with a lot of small aspects and a lot of commonsense ideas and bipartisan ideas that he has been able to stack all together and put into one piece. It is a good idea to provide some regulatory relief in these areas.

I think a fair question to ask is, Are we better off financially as a nation now than we were 5 years ago? Now that this 5-year-old toddler that we call Dodd-Frank is walking around, what has happened? Well, there are some banks that are better capitalized. That is a good thing, but quite frankly we can increase capital requirements without having to go through 12,500 pages of regulations.

We have made it harder to get a loan unless it is a government loan, such as a Small Business Administration loan. We have also literally pushed the loan profile out of private institutions and into Fannie and Freddie, the FHA, and into the Small Business Administration. Now we have record exposure to the Federal taxpayer. We have also made fees to the banks higher, as they have been more challenged as to what to do, and we have half as many banks now offering free checking as we had just 5 years ago. That is a consequence the consumer understands, and it is a consequence of Dodd-Frank. We have fewer banks, we have bigger banks, and we have a lot more complication. In a day when America needs more capital access, we have one bank in 5 years that says: I want to join that market.

Mr. President, I wish I could say ''happy birthday'' to Dodd-Frank, but I am not sure this set of financial regulations is making a lot of Americans happy right now. It is time we come back and revisit this bill.

With that, I yield back.

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

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

DRIVE ACT

Mr. INHOFE. Mr. President, I think at any time—hopefully soon—it appears that we are going to be bringing up the vote to proceed as we did yesterday.

Let me just repeat what I did just a couple of hours ago on the floor. I am not critical at all of the Democrats who voted against the motion to proceed yesterday based on the fact that we dropped the ball over here. We were supposed to give them the necessary information on some of the funding mechanisms and things on the offsets. We didn't give them enough time before the vote took place. You can't go over several hundred pages in a few minutes. Now it has been 24 hours.

Well, even my counterpart on the Democratic side, Senator BOXER, voted against it for the same reason. And they have a right. So, anyway, I feel optimistic that when we have this vote we can proceed to the bill.

Let's keep in mind that this is a bill I perceive as a must-pass bill. The alternative to this would be very, very expensive. It would go back to what we had to suffer through between 2009 and this moment that we are in right now; that is, a list of 33 short-term extensions. Short-term extensions, as we all know, are waste and irresponsible use of highway dollars. Consequently, we need to be spending that money on roads and bridges, not short-term extensions.

So I will look forward to getting that motion to proceed adopted. As soon as that happens, that is when we are going to pull the trigger to get as many people down on the floor with amendments. I keep hearing about all of the amendments that are out there that different Members want to come forth with. The criticism we had with the Democrats when they were in charge was that we were not able to get amendments.

Well, we changed that. Since we have been in control, we have allowed amendments. I know we have a lot of them—some germane and some not germane—but it is going to be an open-amendment process.

We need to get this thing moved forward and pass the next vote or we are not going to be in a position to really go over the amendments, to see which amendments we can agree to—and there will be a lot of them that we can.

This is a 6-year bill. We are authorizing for 6 years with 3 years of identified funding.

Our bill authorizes for 6 years something that we call contract authority, which is a mechanism unique to the highway bill in which the Federal Government makes funding commitments of future funding over multiple years. The use of contract authority was created way back in Eisenhower's 1956 Highway Act for a reason, and it exists still today. It has been the cornerstone of highway bills ever since then, giving States and cities long-term certainty to plan their investments over multiple years.

The reason that is important—I used to be in that business many years ago as a contractor for several years—is that you can't have short-term ideas without going back and making years of planning so that you can organize your labor supply, you can organize all of your rentals and everything that would go into a project.

As States begin to break the ground on projects, they match this contract authority with actual cash and are reimbursed from the highway trust fund. So it comes from the highway trust fund, converts to cash, and it goes into contract authority. Unfortunately, up until 2009, the end of SAFETEA-LU—that is when it went in, 2005, and it was a 5-year bill; so it is the end of 2009—this contract authority was always guaranteed by the receipts in the highway trust fund, but we now find ourselves in a situation where the highway trust fund can no longer support current levels of spending as a result of more efficient and electric vehicles.

I have included a mechanism in this bill that will allow Congress to authorize a 6-year transportation bill consistent with how States and locals plan and deliver the projects and then find the necessary offsets to pay the bill.

Currently, Senator HATCH has identified at least 3 years of cuts to the general fund to redirect to the highway trust fund and shore up the differences between what the highway trust fund can support and the DRIVE Act levels of investment.

So in the first 3 years, the States would have a guarantee of at least 3 years of funding so that they could be confident they would be reimbursed on their contract authority.

In the fourth fiscal year of the act, the Secretary will conduct a solvency test to determine the ability to make payments out of the highway trust fund for the remaining 3 years. Keep in mind that this is a 6-year bill. So the remaining 3 years of contract authority would be given to the States.

If the Secretary determines that the balance of either account will dip below $4 billion in a fiscal year for highway account or $1 billion for the mass transit account, then no new projects can be funded from the highway trust fund during that year.