

Mr. LEAHY. Madam President, I thank my dear friend, the senior Senator from Missouri.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. LEAHY. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar: Nos. 780, 781, 795, 796, 797, 798, 816, 817, 818, 819, and all nominations on the Secretary's desk in the Coast Guard, Foreign Service, and NOAA; that the nominations be confirmed en bloc; the motions to reconsider be considered made and laid upon the table en bloc; any statements relating to the nominations be printed in the RECORD; the President be immediately notified of the Senate's action; and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

#### DEPARTMENT OF JUSTICE

William N. Nettles, of South Carolina, to be United States Attorney for the District of South Carolina for the term of four years.

Wifredo A. Ferrer, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years.

David A. Capp, of Indiana, to be United States Attorney for the Northern District of Indiana for the term of four years.

Anne M. Tompkins, of North Carolina, to be United States Attorney for the Western District of North Carolina for the term of four years.

Kelly McDade Nesbit, of North Carolina, to be United States Marshal for the Western District of North Carolina for the term of four years.

Peter Christopher Munoz, of Michigan, to be United States Marshal for the Western District of Michigan for the term of four years.

Loretta E. Lynch, of New York, to be United States Attorney for the Eastern District of New York for the term of four years.

Noel Culver March, of Maine, to be United States Marshal for the District of Maine for the term of four years.

George White, of Mississippi, to be United States Marshal for the Southern District of Mississippi for the term of four years.

Brian Todd Underwood, of Idaho, to be United States Marshal for the District of Idaho for the term of four years.

#### NOMINATIONS PLACED ON THE SECRETARY'S DESK

#### IN THE COAST GUARD

PN1489 COAST GUARD nominations (6) beginning JOANN F. BURDIAN, and ending DAWN N. PREBULA, which nominations were received by the Senate and appeared in the Congressional Record of February 24, 2010.

PN1556 COAST GUARD nominations (4) beginning Karen R. Anderson, and ending Steven M. Long, which nominations were received by the Senate and appeared in the Congressional Record of March 10, 2010.

#### IN THE FOREIGN SERVICE

PN1404 FOREIGN SERVICE nominations (8) beginning Karen L. Zens, and ending Richard Steffens, which nominations were received by the Senate and appeared in the Congressional Record of January 26, 2010.

#### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PN1457 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (12) beginning SCOTT J. PRICE, and ending SARAH K. MROZEK, which nominations were received by the Senate and appeared in the Congressional Record of February 22, 2010.

PN1458 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (9) beginning HEATHER L. MOE, and ending KURT S. KARPOV, which nominations were received by the Senate and appeared in the Congressional Record of February 22, 2010.

Mr. LEAHY. Madam President, I thank the Presiding Officer, and I thank the Senator from Missouri.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session. The Senator from Missouri.

#### FINANCIAL REGULATORY REFORM

Mr. BOND. Madam President, after the actions of some bad apples on Wall Street wreaked havoc on Main Street, America, there is no doubt we need financial reform to prevent another credit crisis.

It is disappointing that bipartisan consensus on a financial reform package was not reached in committee and instead the majority chose a go-it-alone approach. I hope this is a process Democrats truly want to be bipartisan because my constituents have some good ideas about how to enact real reform that will not stifle economic growth and activities.

I have told my good friend Senator DODD and others that I want to work with them to ensure the concerns I have heard from Missourians—a thousand miles away from Wall Street—are addressed as the process moves forward. I have heard from Missourians who want to end too big to fail, and I have heard from Missourians who want to stop taxpayer-funded bailouts and Missourians who are fearful of empowering government bureaucrats with the power to pick winners and losers. I have also heard from folks in Missouri who are key to job creation. They have well-founded concerns about some of the bill's unintended consequences.

This is a bill that could alter significantly the way Americans do business with the financial services industry, whether it be in the form of a home or auto loan, financing for college, credit for family farms, or much needed financing for small business. In the heartland, where I am from, we understand Wall Street provides critical fi-

nancing, but we want to make sure they do it the right way.

A bipartisan and responsible bill should ensure that the failures that led to our financial collapse are properly addressed and that taxpayers never again are left footing the bill for the egregious mistakes of a few bad actors. It is time to stop taking a piecemeal and ad hoc approach to addressing the financial crisis. Burying our collective heads in the sand to avoid what needs to be done and simply hoping things will get better by throwing more money at these failed institutions and just believing they will get better on their own is unrealistic.

Americans are rightfully angry and frustrated about the trillions of dollars the government has committed to rescuing the financial industry, when so many of them are still struggling to find jobs, pay bills, and get the loans they need for cars, home, college, or to farm. They believe—and rightly so—that it is fundamentally unfair for the bad actors who caused the financial crisis to get bailed out while many of them lost their jobs and their savings as a direct result of the irresponsibility of others.

We need a clear path to unwinding and ending these institutions that are too large and that pose systemic risk to the financial health of our market without doing so at the expense of the American taxpayer. No institution should ever again be considered too big to fail.

Today, I remind my colleagues that the government played a role in contributing to our financial and economic crisis. Government policies and actions to promote home ownership to buyers who could not afford to buy were irresponsible. That is why I am shocked that this bill does nothing to reform Fannie Mae and Freddie Mac, the government-sponsored enterprises that contributed to the financial meltdown by buying high-risk loans made to people who could not afford them. These irresponsible actions left the Federal Government with the risk and the American taxpayer with the bill to bail them out.

In addition to the cost to taxpayers, these irresponsible actions turned the American dream into the American nightmare for too many families who faced foreclosure and devastated entire neighborhoods and communities as property values diminished. Additionally, government failure to adequately regulate the financial system—specifically, the Securities and Exchange Commission and other regulators—allowed these institutions to take on too much risk, which was a major factor in the credit collapse. Collectively, these policies and actions have brought us to the economic crisis which has touched every American's life.

The current proposal ignores Fannie and Freddie, which were significant

contributors to the crisis. That is a big mistake.

We need to be sure the proposals address the needs of Main Street America. Leaving them out would be another mistake.

Rather than focusing on the concerns of Wall Street, I have spent my time focusing on the concerns shared with me by my constituents back in Missouri. Missourians expect real reform but demand that Congress prevent an overreach of government that stifles businesses and kills jobs.

One specific area of concern is the creation of the so-called Consumer Financial Protection Bureau, the CFPB. This new, massive government bureaucracy has unprecedented authority and enforcement powers to impose duplicative and costly mandates on any entities that extend credit. We are not talking about just big Wall Street banks but also the community banker, the local dentist, farm lender, or auto dealer. As a result, there will be no choice but to pass these added costs on to consumers—the very people this bill was designed to protect.

The only way to ensure the CFPB does not unintentionally hurt well-performing institutions that issue credit is to narrow the scope and authority with clear language outlining exactly whom this new regulator will regulate. Surely my colleagues would not want to vote for a bill that creates a new government bureaucracy without knowing exactly what the bureaucracy is empowered to do.

Instead of unlimited authority, this new regulator should focus on the shadow banking entities that operate outside of the regulatory framework and prey on vulnerable people. We have all heard horror stories from our constituents about the bad operators pushing no-money-down or no-doc home mortgages and the reverse mortgage scam artists who sell too-good-to-be-true financing.

There must be appropriate oversight of this regulator. The last thing we need is a new government bureaucracy that, under the guise of consumer protection, is really just pushing one party's political agenda. The current business climate is overwhelmed with uncertainty, and we need to ensure this bureau does not create additional uncertainty for any investor or business that operates in this country. The prudential regulators should have a final say on anything that would put the safety and soundness of institutions and the credit of borrowers at risk.

Next, Missourians refuse to be on the line for another bank bailout. I share their frustration over the concept of an institution being considered too big to fail. We must put an end to too big to fail. We need a mechanism in place that allows for immediate liquidation of failing financial firms.

In my recent conversation with Larry Summers, I expressed this con-

cern, and he agreed that the administration wants euthanasia for failed companies, not resurrection. The government should not be in the business of creating zombies.

The era of bailouts must be over. Any mechanism of resolution must be fair and evenhanded. Missourians will not accept government bureaucrats picking winners and losers in creditor repayment.

In addition, the \$592 trillion over-the-counter derivative market needs stronger rules of transparency. Some of the derivatives traded in this market played a significant role in the recent credit crisis through products such as credit default swaps. These and other transactions—which I call video game transactions, where there is no substance involved and they are making bets on the financial system—should have been cracked down on by the Securities and Exchange Commission.

However, there is an important distinction to be made here. Not all derivative contracts pose systemic risk. As a matter of fact, commercial contracts initiated, for example, by energy companies, utilities, and the agricultural industry are used to manage risks associated with daily operation, from cost fluctuations in materials and commodities to foreign currency used in international business. These end users, as they are called, do so in order to plan for future pricing so they can provide the least expensive good or service to their consumers as possible. Costly margin requirements for these end users will be directly passed on to families. This will increase the cost for Americans to turn on their lights and put food on their tables.

My hope is that the ultimate Senate bill, like the House-passed bill, will ultimately address this concern with a strong exemption for end users from the clearing and margin requirements. These end users are not major swap participants and should not be treated as such.

Finally, the Federal Reserve Bank's current structure for regulatory oversight ensures that responsibilities and power are shared across the country, not just in Washington and on Wall Street. Regional reserve banks give all regions in the country a voice in banking, credit policy, and monetary concerns, which gives a complete picture to the Board of Governors as they decide on Federal monetary policy. This system was established over 100 years ago and should be maintained in order to protect the concerns of small and medium-sized banks. Financial crises can and do occur within small but interconnected banks, which is why the Federal Reserve needs to continue to take the economic temperature of the entire country, not just of those on Wall Street.

As hard-working Americans and small businesses struggle to emerge

from this meltdown and drive our economy through the recovery process, it is the responsibility of the Federal Government to ensure we have a robust regulatory system. It is critical that our regulatory system be modern, responsive, and empowered with appropriate authority, while allowing for business prosperity as we prevent future crises.

In Missouri, I have been working to build an agricultural biotech corridor. This has the potential to foster a whole new interest, providing great jobs in advanced agricultural research and biotech. It is the best stimulus to create high-paying, skilled jobs that rural Missouri and rural America need.

However, today I read in the Wall Street Journal a very disturbing report that this bill would possibly kill small business startups by delaying and limiting the availability of private investor seed capital. Small startups have been at the forefront, driving job creation. In this bill, new requirements by the SEC would insist that investors register with the Commission for a 4-month review, meanwhile tying up vital venture capital or seed capital dollars. This harmful delay for new businesses in need of immediate capital would be crippling.

According to the Wall Street Journal:

No one believes angel investors pose a systemic risk, so it's hard to understand why these proposals are in the bill. The economy needs more private job creation.

Incidentally, it would triple the minimum wealth of the seed capital investors who could invest in these from \$1 million to over \$3 million. That cuts out three-quarters of the people who might invest in starting up these companies. This would be devastating to rural job creation in Missouri and across the country.

Our greatest potential for new jobs depends upon the innovative ideas, the entrepreneurship of people who are willing to use their own time and ideas but need seed capital to do it. These small companies could not wait 120 days, in many instances. They could not find the seed capital investors. In other words, in sum, moving from too big to fail, this new bill, if enacted with that provision in it, would say to these innovators, these entrepreneurs: You are too small to succeed.

This is not a measure that is going to protect people from Wall Street; this is an overreach by the Federal Government which would shut down the job creation Main Street needs.

Neither political party has a monopoly on good ideas. Reforming our financial system is too important to be done on a partisan basis. I urge my colleagues, and I hope they will consider the ideas I have heard from Missourians. We haven't just been listening to Wall Street; we have been listening to Main Street. I hope the Presiding Officer and all of the Members of this body

will listen to what they are saying on Main Street about the need for the small companies, whether they be startup companies or small banks, to succeed. We need to make sure we don't kill the backbone of our American economy.

Madam President, I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### EXECUTIVE CALENDAR

Mrs. MCCASKILL. Mr. President, I came to the floor on Tuesday of this week to do something I do not think had been done before under the rules. We had a new law that went into effect in the early part of 2007 that gave us a mechanism that was supposed to stop secret holds. We are all waiting to see if by moving all of the nominations by unanimous consent, in fact, the owners of the secret holds step forward.

While we wait to see if the rule that was designed and passed into law works, a bunch of us have been talking. The folks who have been talking about this are the newest Members of the Senate in the Democratic Party. There are 21 of us who have arrived in the Senate sometime between now and January of 2007. It is a pretty big group of Senators.

In discussing the secret holds with my colleagues who have been here for a fairly short period of time, we decided: Why don't we just quit doing them? Let's quit worrying about whether you are identifying yourself in 6 days, whether you are going to play the switcheroo, pull your secret hold and put on another secret hold. Let's just stop it. No more secret holds.

We now have drafted a letter to Leader REID and Leader MCCONNELL, and we have said: First, we will not do secret holds. We are out of the business of secret holds. We are not going to do them. Second, we want the Senate to pass a rule that prohibits them entirely.

If a Senator wants to hold somebody, fine, but say who they are and why they are doing it. If a Senator wants to vote against somebody, that is their right. But this notion that they can, behind closed doors, do some kind of secret negotiation to get something they want from an agency—let's be honest about it; that is what a lot of this is. It is getting leverage, secretly getting leverage for something they want. Those are not appropriate secrets for the public business.

We have 80 secret holds right now. About 76 of those are Republican secret holds; 4 are Democratic secret holds. By the way, all 80 of the ones on which I made the unanimous consent request came out of committee unanimously. We even checked on the voice votes to make sure no one said no in committee. There were no "no" votes. These 80 nominees were completely unopposed out of committee.

They are everything from the Ambassador to Syria to U.S. marshals to U.S. attorneys. These are people who need to get to work. They are going to be confirmed. They are all going to be confirmed. We need to get this done. We need to stop secret holds. We need to get these people confirmed. We need to change the way we do business around here.

I, once again, give a shout-out to Senator WYDEN and Senator GRASSLEY who worked on this issue for a number of years. We are going to open this letter to all Members of the Senate and, hopefully, before we find out—we are all waiting to see what happens in the 6 days that are looming for all these secret holds, if people step up into the sunshine. If they do not, in the meantime we, hopefully, will get unanimous support from Senators that secret holds are now out of fashion and no longer going to be tolerated in the Senate.

Mr. President, I yield the floor for my colleague from Colorado, Senator BENNET.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BENNET. Mr. President, I thank the Senator from Missouri for kicking off this discussion. I rise in strong support of this effort by a group of reform-minded Senators to finally get rid of this ridiculous and insane practice of anonymous holds. The American people have little patience for this political game when they are going through what they are going through.

What people should understand is, at least in my view, this is less about partisanship. The Senator from Missouri talked about the fact that these are people who passed unanimously out of committee, with Republicans and Democrats supporting the nominees who somehow, between the committee process and the Senate floor, got stuck. They are getting stuck anonymously. I say it is not about partisanship. I say this is a perfect illustration of Washington, DC, being completely out of touch with what is going on in the country.

No one else in the country invents a set of rules to make sure they do not get their work done. But that is what we are doing in the Senate. That is why I think it is high time we got rid of these anonymous holds. I would go even further. I have legislation that gets rid of the anonymous holds and bans these secret holds. But it would

do more. It would also require that a hold be bipartisan or else it expires after 2 legislative days. If a Senator wants to place a hold, that is within their rights, but we are going to make sure it is scrutinized. We are going to make sure they can get support from somebody on the other side of the aisle for holding up the country's business. All holds under my bill would expire after 30 days, whether they are bipartisan or not.

I also wish to highlight that the Senators who have taken this strong stance against secret holds are willing to put our money where our mouth is. While Washington bats around about this and other reforms, we have all pledged that we will stop the practice of secret holds ourselves. It was easy for me to do because I have never placed a secret hold on the Nation's business, and I never will.

This is a small but important illustration of what is not working well in the Senate, what is blocking progress for the American people. It is a small step but an important step to demonstrate that we can actually do our work differently, that we have been sent here to have an open and thoughtful debate about the issues that confront our great country. I am proud to be here today with my other colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. Mr. President, it is unfortunate that we have to be on the Senate floor this afternoon to talk about so many of the nominees we need to do the work of this country who are being held up, and being held up by people who are not willing to identify themselves or say what their issue is with these nominees.

I am pleased to join my colleagues. I am glad we are mounting this effort. We need to get rid of the secret holds. But it is unfortunate that we are where we are.

I understand why people are frustrated with what is happening here. People want to see things get done. They understand we have significant challenges facing the country, and they want to see action on those challenges.

It is clear that one of the areas where there is a problem is with the 80 or so people who were nominated who have been held up, some of them for months and months, because somebody has an issue, not with the person who is being held up usually, but as my colleague from Missouri said because someone wants to get the attention of a department or agency within government or because somebody wants to keep the Obama administration from doing the work of the people.

I wish to point out some of the people who have been on hold. No one has identified themselves as to why they