

Senator from Mississippi (Mr. COCHRAN).

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

The result was announced—yeas 61, nays 31, as follows:

[Rollcall Vote No. 107 Ex.]

YEAS—61

Akaka	Gillibrand	Mikulski
Baucus	Gregg	Nelson (FL)
Bayh	Hagan	Nelson (NE)
Begich	Harkin	Pryor
Bennet	Hatch	Reed
Bingaman	Inouye	Reid
Brown	Johnson	Rockefeller
Burr	Kaufman	Sanders
Byrd	Kerry	Schumer
Cantwell	Kohl	Shaheen
Cardin	Kyl	Snowe
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Coburn	Leahy	Udall (CO)
Collins	Levin	Udall (NM)
Conrad	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	Lugar	Whitehouse
Durbin	McCaskill	Wyden
Feingold	Menendez	
Feinstein	Merkley	

NAYS—31

Alexander	DeMint	Risch
Barrasso	Enzi	Roberts
Bennett	Grassley	Sessions
Bond	Hutchison	Shelby
Brownback	Inhofe	Specter
Bunning	Isakson	Thune
Burr	Johanns	Vitter
Chambliss	Martinez	Voinovich
Corker	McCain	Wicker
Cornyn	McConnell	
Crapo	Murkowski	

NOT VOTING—7

Boxer	Graham	Murray
Cochran	Kennedy	
Ensign	Klobuchar	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

Mr. MCCAIN. The President nominated Elena Kagan, currently dean of Harvard Law School, for Solicitor-General of the United States. While I do not share many of Dean Kagan's views, I especially disagree with Dean Kagan on the constitutionality of the Solomon amendment.

In 2005, Dean Kagan and 53 other law school faculty members filed an amicus brief to declare the Solomon amendment unconstitutional. The Solomon amendment, named for former Congressman Jerry Solomon, allows military recruiters to meet with students on college campuses and allows the Reserve Officers' Training Corps, ROTC, to train on college campuses. The Supreme Court found Dean Kagan's arguments to be unpersuasive and declared the Solomon Amendment to be constitutional. I believe the Supreme Court was absolutely correct in its decision.

It is my hope that as Solicitor General, Dean Kagan will not allow her personal viewpoint on this important issue to prohibit the implementation of the Solomon amendment and that our military recruiters continue to recruit the best and brightest at our Nation's colleges to serve in our military.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The majority leader is recognized.

UNANIMOUS CONSENT REQUEST—  
H.R. 1586

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 1586, an act to impose an additional tax on bonuses received from certain TARP recipients, just received from the House and at the desk; that the Baucus-Grassley amendment, which is the text of S. 651, which was introduced today by Senators BAUCUS, GRASSLEY, and others, be considered and agreed to, the motions to reconsider be laid upon the table, the bill, as amended, be read three times, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, reserving the right to object, I don't believe Congress should rush to pass yet another piece of hastily crafted legislation in this very toxic atmosphere, at least without understanding the facts and the potential unintended consequences. Frankly, I think that is how we got into the current mess.

As the chairman of the Finance Committee said last week:

Frankly it was such a rush—we're talking about the stimulus bill now—to get it passed, I didn't have time and other conferees didn't have time to address the provisions that were modified significantly.

I don't know what is in this legislation. Nobody else knows what is in this legislation. There have been no hearings. It seems to me the Banking Committee should have a hearing. The Finance Committee should have a hearing. Obviously, any tax legislation should be vetted through the Finance Committee. I am a member of that committee. We haven't had any meetings to talk about this. Other Senators need time to consider the bill and offer amendments through the regular order through the committee process. More importantly, because of the public interest, the public ought to have the right to review this legislation to make sure it doesn't have any additional loopholes or unintended consequences.

The Baucus bill, as I understand it, is retroactive, not something we ordinarily do with tax policy. It seems to me we ought to have these hearings before we let this legislation come to the body. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, before my friend leaves, I appreciate the statement of my friend from Arizona. At least he is willing to look at it and study it, and I appreciate that very much. The Republican leader in the House, of course, was opposed to it, so we are glad the Republican assistant leader, the Republican whip, as a member of the Finance Committee, will

look at it. The bill has been filed on our side and, hopefully, we can work toward getting something done. I appreciate the statement of the Senator from Arizona.

I note the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. 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. KAUFMAN. Mr. President, I ask unanimous consent to proceed as in morning business.

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

FAIRNESS OF FINANCIAL  
MARKETS

Mr. KAUFMAN. Mr. President, I wish to spend a few minutes talking about action that needs to be taken to restore the credibility of the fairness of the American financial markets.

On Monday, Senators ISAKSON, TESTER, and I introduced S. 605, which directs the Securities and Exchange Commission to write regulations that will deal effectively with abusive short selling.

One of the abusive techniques addressed in the bill is so-called "naked short selling." Naked short selling is when traders sell shares they don't own and have no ability to deliver at the time of sale—which dilutes the value of a company's shares and can drive prices down artificially.

Before the ink on our bill was even dry, we received a profoundly disappointing report from the SEC's inspector general entitled "Practices Related to Naked Short Selling Complaints and Referrals," a report detailing the results of an audit on the SEC Division of Enforcement's policies, procedures and practices for processing complaints about naked short selling.

An astounding 5,000 complaints about abusive short selling were sent to the SEC's Enforcement Division between January 1, 2007 and June 1, 2008. There could be no mistaking the scale of the potential problem that that number of complaints reflected. Incredibly, a mere 123 complaints were referred for further investigation. Worse, and I quote: "none of the forwarded complaints resulted in enforcement actions . . ." five thousand complaints, zero enforcement actions.

Not surprisingly, the SEC inspector general has concluded that the processes for dealing with such complaints need a fundamental overhaul.

Accordingly, the IG made 11 suggestions for improvements. And how did the Enforcement Division respond? It agreed to one of the IG's recommendations, and declined to move on the rest.

I have been around Washington and the Senate for 36 years, but rarely have