I should note that Republicans controlled the Congress then and Democrats controlled the executive branch. Both parties played a role.

Some contend that the problem goes back to 1977, when Congress passed the Community Reinvestment Act requiring that financial institutions finance home purchases to borrowers who were historically deemed unlikely to pay back the loans. The theorists say that when politicians try to determine who is a good borrower, both the borrower and the lender will suffer. I think we will look back on this effort to save the system and that conclusion will become a reality. Let me repeat. Some say that when we try to determine who is a good borrower and make a determination rather than letting the market make the determination as to who is a good borrower, we both suffer. Those who lend the money don't get paid, and those who buy don't get what they bought. That is sort of what has happened here. Many of those became the toxic assets that we are now talking about. The Reinvestment Act, which both Democrats and Republicans voted for, was an act that attempted to push loans that were questionable in terms of whether the people buying could ever pay them off.

Some say we should have seen this coming. They note that the savings and loan crisis came not too long after the Garn-St. Germain Act of 1982 that loosened regulation of savings and loans in America. The law drew the support of both Democrats and Republicans and was signed into law by a Republican President. This argument says that when regulation of Government-insured money loosens, the odds that extremely risky behavior will occur increases.

During the last 10 years, as regulation of markets decreased, globalization of markets increased. More and more complicated and model-driven financial products were invented, and regulators clearly lost the ability to analyze risk and to step in when necessary. Many believe the Long-Term Capital Management debacle was an early warning that financial mathematicians in the marketplace had gotten ahead of the financial regulators. Warnings about the size and complexity of derivatives of all sorts proliferated. Many policymakers asked aboutthe size and complexity of these derivatives of all sorts and could not get answers and could not understand some of that which they were being told. Many policymakers and regulators assumed that the financial companies themselves would realize that proper risk analysis was in their self-interest and self-regulation would naturally occur. That assumption has proved wrong. Many purchasers of these convoluted products were reassured because rating agencies continued to give so many of them AAA ratings. Instead of going through the extremely difficult process of analyzing each and every component of each and every product, purchasers depended upon the ratings agencies. So some analysts now say it was the rating agencies that failed.

Finally, we all recognize that turmoil plagues all markets worldwide. Many nations and institutions in many countries now own what are called ''toxic assets.'' I have just tried to describe them a minute ago.

Literally trillions of dollars of various complex financial products are held by many banks, investment houses, pension funds, and insurance companies in almost every developed nation. China has had to step in by increasing Government shares of some banks. Russia closed down its markets for 2 days and may spend as much as $120 billion to stabilize its markets. Germany and the United Kingdom have had to devote billions within the last 18 months to try to stem financial contagion. Serious erosion of confidence in financial institutions threatens to freeze credit, with all the disastrous consequences that holds for a financial world built on easy, safe, transparent credit. Now credit is hard, insecure, and opaque.

So, I will not pretend to know if the plan proposed by the administration and some in Congress will solve the problem. Since no one seems to know what shape this plan will take in the end, any predictions seem foolish at this point. I do know that the size of the potential market injury, and the consequences that the working man and woman in this and other nations will suffer, compel serious, strategic sovereign government action. Thus, I believe the warnings of a Federal Reserve Chairman who probably knows as much about the financial consequences of the Great Depression as anyone else in town, and the warnings of a Treasury Secretary who used to head a Wall Street firm that invented many of the instruments that now seem ''toxic.'' If they don't know the severity of this problem, and if they cannot at least give us a plan that will stabilize market behavior until a clearing price for these assets emerges, then I suspect that no one can.

We will pass legislation that I guarantee you will be imperfect. All sorts of objections from various industries and groups have already filled cyberspace, and newspaper space, and air time. Ideological and theoretical objections already fill the atmosphere. It seems to me that the time for such almost theological discussions is long past. As a Senator who has been here a long time, and seen many recessions and market crises come and go, I only know two things: we are all to blame in some form or other; and we need to act now, with a very large, Government-led program, and with all prudent speed.

Madam President, I believe my time is about to expire.

I certainly hope we will pass something like what has been asked of us by the executive branch, with five or six things that clearly are necessary, that we find necessary as representatives of the people, but that we get it done because we must save our own ability to lend money—that is, our system of borrowing and lending—and the rest of the world kind of waits on us also.

So this is truly a big one. As I said to my hometown paper, after 36 years in the Senate, on the last day or next to the last day of my time here, I will vote on the most important issue I have ever voted on, the most complex, and that costs the most—all in one shot. As I leave and walk out, here will be behind me the most difficult issue we have faced as a Nation. It is very hard for our people to understand it, but it is a terrible one.

FERC

Mr. CORNYN. Madam President, I note that the distinguished ranking member of the Committee on Energy and Natural Resources is on the floor. I wonder if I might address a question to my good friend from New Mexico. Many are alleging that one of the root causes of our current financial distress stems from insufficient regulatory oversight of financial markets. That is a criticism which some allege to be applicable to our Nation's energy markets—the theory apparently being that lax oversight has allowed speculators and manipulators to artificially increase prices for oil and gas. Given that you were Chairman of the Energy Committee at the time of passage of the Energy Policy Act of 2005 I wonder if you might want to comment on the regulatory authorities that were addressed in that act. As I recall, EPACT significantly increased the Federal Energy Regulatory Commission's ability to not only oversee markets but to punish manipulation within those markets.

Mr DOMENICI. The Senator is absolutely correct. We enhanced FERC's authority to police and prevent market manipulation and we increased the Commission's authority to levy fines to $1 million per day. It was our thinking that the potential for fines of this magnitude would serve as a meaningful deterrent to market manipulation. While I am a long time supporter of markets, I agreed to the grant of enhanced penalty authority to the FERC as a step to ensure that those markets were conducted fairly, openly, and without the exercise of market power by any of the participants.

Mr. CORNYN. Madam President, I appreciate the comments of my colleague, and I share his sentiment both toward the desirability of markets and the need to ensure that those markets operate fairly and efficiently. My specific inquiry relates to the standard of review which attaches to any enforcement proceedings under these enhanced authorities. While I agree with the need for greater oversight in the operation of these markets, it seems to me that along with its enhanced oversight authority the FERC has an obligation to protect the due process rights for those against whom it might bring causes of action. Did EPACT bring about any change in the standards of review which would attach to enforcement proceedings under these new authorities?

Mr. DOMENICI. I think the Senator's question is well informed, and I can assure him that there was no intent to change the standard of review which would attach to any enforcement proceeding. The longstanding practice has been for the accused party to have rights to a de novo review of the charges in Federal court. Such rights are necessary to ensure that the agency does not act as both prosecutor and judge in any enforcement proceeding. That right is clear, not just in the case law but in other statutes administered by the FERC, including the Federal Power Act and the Natural Gas Policy Act. There is no suggestion and there can be no inference that we intended to change that standard with our enhanced market oversight provisions in the Natural Gas Act.

Mr. CORNYN. I thank my good friend for that clarification and for the wisdom he has brought to Federal energy policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Madam President, let me say, first, following one of my dearest friends in the Senate, I cannot tell you how much I admire and respect this great man and how much he will be missed in the Senate.

Mr. DOMENICI. Madam President, I say to the Senator, thank you very much, Senator DOLE.

GAS SHORTAGES

Mrs. DOLE. Madam President, we all know high gas prices are the source of tremendous frustration to individuals, families, and businesses alike. I am greatly discouraged that yet another week has gone by and no action on a comprehensive energy policy has taken root in the Senate. Our country deserves better than the lack of leadership in Washington that has been shown on this issue the past 2 years.

We need a comprehensive energy policy, but right now in North Carolina we just need more gasoline. My State faces a gas shortage of crisis proportions. In western North Carolina, Asheville-Buncombe Technical Community College and Southwestern Community College have both canceled classes for the rest of this week because students and professors cannot get to class. My office has been assisting senior citizens who need help getting to doctor appointments because public transportation systems are struggling to meet increased demand. Businesses are closing early, cars are being left on the side of the road, and families are staying home just to conserve gasoline. The ripple effects of this gas shortage are resonating throughout North Carolina and the Southeast.

I know folks in western North Carolina are being particularly hard hit, and I want them to know I have heard them and we are acting to bring relief. My office has been in daily contact with constituents, State and local officials, gasoline refiners and distributors, and our Federal agencies. In response to the shortage, today my colleague, Senator RICHARD BURR, and I have written to the Secretary of Energy requesting him to tap the International Energy Agency's emergency gasoline and diesel fuel supply. An IEA release can help alleviate some of the supply constraints we are feeling in the United States. This is a prudent and responsible step which is on the scale of our efforts post-Katrina and Rita, and there is no reason the Secretary of Energy should not take this action.

Additionally, Senator BURR and I have introduced legislation today that will help prevent in the future a situation such as the one we find ourselves in today. The Motor Fuel Supply and Distribution Improvement Act of 2008 will reduce the proliferation of boutique fuels and streamline the process of getting more affordable and reliable product to western North Carolina, Charlotte, the Southeast, and across the country. With this legislation, we will no longer have to rely on an EPA Administrator to issue a waiver in times of crisis or be held victim to a policy that creates hurdles to getting gasoline to consumers when they need it most.

We also know this particular shortage is a result of Hurricanes Gustav and Ike, which devastated the gulf coast and its infrastructure. Being from a State that has been hit by its fair share of hurricanes, my heart goes out to the people of the gulf who have endured far too much disaster for one lifetime, and we will do everything possible to support them and help them rebuild.

Of strategic consequence, however, the refinery and pipeline closures in the gulf as a result of the storms highlight a glaring energy security issue for our country. It makes little sense to have a quarter of our country's refining capacity located so densely in one area. We have far too few oil refineries in America, and right now in North Carolina we are experiencing the harmful consequences of a policy that has greatly inhibited the building of new refineries in America.

We need to get to work building new refineries right here at home. In fact, for years I have been calling for streamlining regulations so more refineries can get built, only to have special interests stand in the way. The Gas Petroleum Rifiner Improvement and Community Empowerment Act, or Gas PRICE Act, which I have supported since 2005, would streamline the process for the construction and operation of a refinery so we can build additional refineries and create new jobs in North Carolina and throughout the Southeast. This is a sensible approach that would expand refinery capacity and lower gas prices.

Significantly, with this plan, our country would no longer be so dependent on one area to provide us with so much of our gasoline. As we saw in the wake of Hurricanes Katrina and Rita, we need to expand refining capacity and production so that even in the face of crisis situations our fuel supply system continues to function and support American businesses and consumers.

Now Hurricanes Gustav and Ike have reinforced that same message. North Carolinians can no longer afford Congress's inaction on our energy future. It is time to put the special interests aside and do what is right for our country.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Madam President, I ask unanimous consent to speak in morning business for approximately 6 minutes.

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

Mr. KOHL. Thank you, Madam President.

WALL STREET BAILOUT

Mr. KOHL. Madam President, today we are facing a historic economic crisis. We have been told by the Secretary of Treasury and the Chairman of the Federal Reserve that we stand on the edge of a financial cliff and that we are looking down on a potential disaster that this country has not seen since the Great Depression. We have seen historic financial firms and banks with household names swept away in a matter of weeks. These massive changes have left the American people worried, confused, and angry.

In the wake of this chaos on Wall Street, the administration has come to Congress with a plan they believe will calm the storm. They came to us with few details—only three pages. They told us we need to move immediately, that delay was dangerous. We were told that oversight of the bailout would be a burden and just slow everything down. We were told to hand over the money and simply get out of the way.

The administration asked the American people for a $700 billion blank check. Wall Street and the administration are asking hard-working Wisconsinites to bail them out, to buy assets that no one wants, to go further into debt to China so that banks and financial institutions can avoid bankruptcy. My constituents, the people of Wisconsin, cannot understand how we got to this point and why they should be asked to foot the bill. They are furious, and I do not blame them.

I share their anger. As a businessman, I am shocked and appalled that the supposed best and brightest on Wall Street allowed their companies to purchase dangerous assets they did not understand, that these people gambled with the money of millions of Americans, and now they expect those same Americans to come to their rescue.