NOMINATION OF RICHARD CORDRAY

Mr. DURBIN. Mr. President, experts blame credit default swaps and collateralized debt obligations for the financial crisis. The fact is, these complicated financial products were based on mortgages sold to families who couldn't afford them, credit cards with hidden fees, and loans targeted to low-income individuals with up to 400 percent interest rates. The financial regulators ignored their responsibility to protect consumers from these predatory practices. Because there was not one regulator solely responsible for consumer protection, the financial regulators pointed their fingers at the other guy when the system collapsed. Consumers lost $17 trillion in household wealth and retirement savings almost overnight.

That is why a bipartisan group of 60 Senators voted last year to consolidate consumer protection authority into one agency: the Consumer Financial Protection Bureau. The CFPB was given new responsibilities to oversee nonbank actors who deal in payday loans, prepaid cards, student loans, and credit reporting.

Mr. President, 200 million Americans rely on credit reporting agencies when they make a big purchase and sometimes when they apply for a job. An estimated 20 million people use payday lenders to make ends meet. I wish they didn't, but they do. Many of them face up to 400 percent interest rates to obtain these short-term loans. Four million Americans have prepaid debit cards. As more companies use these types of products instead of checks or direct deposit, it is expected that over $670 billion will be loaded into prepaid cards in the next few years. More than $10 billion in private student loans is given to students, who then face up to 15 percent interest rates. I talked about a few of them in an earlier statement.

Tens of millions of Americans relying on nonbanks for their financial needs will go without protection unless the Consumer Financial Protection Bureau has the resources it needs to help American consumers and a Director.

Earlier this year, President Obama nominated Richard Cordray to be Director of the Consumer Financial Protection Bureau. He was recruited to lead the Enforcement Division and now is being asked to move up and take over the directorship. Before joining, he served as Ohio's attorney general, recovering billions of dollars in pension funds on behalf of retirees and taking on the predatory lenders. Mr. Cordray saw firsthand how the failure to enforce Federal consumer protection laws related to mortgages affected Ohio residents. He has a strong grounding, working with both consumer advocates and the financial sector. He is an excellent choice, and I strongly support his nomination.

Unfortunately, Mr. Cordray is asking to head up a consumer protection agency which, to paraphrase a former colleague on the floor, the banks hate like the devil hates holy water. The idea that we would give authority to an agency to watch these financial institutions—payday loan operations and the rest—to make certain they don't exploit American consumers drives these banking interests wild. They have done everything they can to stop him from becoming Director and to cut the money available for his Bureau. They don't believe there should be consumer protection. Let the buyer beware. They don't care, at the end of the day, if innocent people suffer across America. But they should.

My colleagues claim there won't be any real checks on his power if Mr. Cordray is given this position, but he is subject to an annual audit by the GAO; he has to report to Congress biannually; is subject to private sector independent audit; monitored by the inspector general of the Federal Reserve; the Comptroller General is required to annually audit the financial transactions of the Bureau; and is subject to the Regulatory Flexibility Act, the Paperwork Reduction Act, the Congress Review Act, and the Administrative Procedures Act, to name a few. The Financial Stability Oversight Council that includes members from across the financial sector can review and overturn CFPB regulations. No other agency is subject to having regulations under its own jurisdiction overturned. But that isn't enough for the special interests that hate the Consumer Financial Protection Bureau. These are the same players who helped create the financial crisis that devastated our economy.

Despite all these measures to ensure congressional oversight, those who couldn't kill the CFPB outright are determined to destroy its ability to act. And now, as we finally start to recover from this economic crisis, the same special interests are protesting efforts to require the disclosure of credit card fees, for example. The same banks that made billions from selling homes to families who couldn't afford them are refusing to modify mortgages so families can stay in their homes. They don't want to change the structure of the CFPB; they want to destroy its ability to protect America's consumers and families. They want to go back to the days of ''heads I win, tails you lose,'' back to the days when we didn't have to worry about a regulator enforcing consumer protection laws.

The CFPB structure is similar to other financial regulators. The Office of the Comptroller of the Currency has been led by one individual with congressional oversight for over 100 years, for example. The Federal Housing Finance Agency, which oversees Fannie Mae and Freddie Mac, is also led by a single Director with congressional oversight. Yet both financial regulators have avoided the political outcry we are hearing about the Consumer Financial Protection Bureau.

Really, what we are seeing, I am afraid, is a partisan effort to block a well-qualified nominee. Many intelligent, decent, and hard-working Americans volunteer to contribute as appointed public servants. They are well qualified, but all too often these days, they can't get through the Senate. This has serious consequences on all Federal agencies and our judiciary.

Yesterday, we saw an incredibly astonishing Republican filibuster of the nomination of Caitlin Halligan to serve in the DC Circuit Court of Appeals. The fact is, those voting against her nomination couldn't come up with a good reason. She had been found by the ABA to be unanimously ''well qualified,'' she had an amazing resume, and she was rejected on a filibuster initiated by the Republican side. That is unfortunate.

I would just say to my Senate Republican colleagues that I think Richard Cordray has the background and experience to lead this agency. He should be given a chance. I know the banks aren't happy that anybody is watching them. These financial institutions—payday lenders and the rest—would rather do their business without anybody looking over their shoulders.

Holly Petraeus is the wife of General Petraeus. She has been working with the Consumer Financial Protection Bureau to stop the exploitation of men and women in military service. She came by my office to talk about what this agency is doing to protect these families. Sadly, some of these families are exploited so badly that they are forced out of the military and have to be discharged. We don't want that to happen. We don't want it to happen to American families who unsuspectingly find themselves lured into financial arrangements that are totally unfair.

Richard Cordray is competent, qualified, and an honorable public servant. He deserves an up-or-down vote. We are going to have that vote probably tomorrow, and I hope he will be confirmed and given an opportunity to lead this important agency.

Mr. President, I yield the floor.

Mr. THUNE. Mr. President, I ask unanimous consent that when I complete my remarks, the Senator from Wyoming, Mr. BARRASSO, be allowed to follow me.

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

KEYSTONE XL PIPELINE

Mr. THUNE. Mr. President, the President of the United States has said repeatedly that he makes jobs his top priority, he wakes up every morning thinking about what he can do to create jobs and how he can create jobs. Yet we have the greatest shovel-ready project in the country right in front of us, and when it comes to that particular project, for some reason the President is suddenly not interested. I think we have to ask the question of why that is. I think there are probably

a number of reasons, most of which have to do with politics and not the economy and not jobs because clearly this is a subject on which there is no debate when it comes to the job-creation potential there, the impact it would have on the economies of multiple States in our country and what it would do for the issue of energy security.

The project to which I am referring is the Keystone XL Pipeline. The Keystone XL Pipeline is a project that has been under review now for the better part of 3 years. In fact, there have been two environmental studies. If you look at all of the due diligence that has been done, it has clearly been reviewed, it has been analyzed, it has been studied, and it has been scrutinized. It has gotten to the point now where it is time to move forward, time to make a decision on this.

Ironically and I think sort of surprisingly to a lot of people, recently the administration said they are not going to decide this now, for 18 months. They are going to put it off for 18 months—interestingly enough, from a timing standpoint, until after the next election. I think it is unfortunate that is the case because, again, if your No. 1 priority is job creation, you have one here ready to go today that could be under construction, and it would immediately create 20,000 jobs in this country, and it would create $7 billion of investment and a lot of revenue for State and local governments, many of which desperately need it.

In my own State of South Dakota, the Keystone XL Pipeline would traverse my State of South Dakota as the oil that comes from the oil sands area up in Canada makes its way down to the refineries and other parts of the country, comes through South Dakota, and just in our State alone that would be about $½ billion of economic activity, meaning hundreds of jobs and revenue for a lot of State and local governments.

This project in my State, like so many States where it comes through, where it impacts—there have been a number of opportunities for people to be heard, to get their input made on this. It has been going on now for 3 years. You finally get to a point where you have to say it is time to make a decision one way or the other. Clearly, my view on this is that this is a project that should move forward. But one way or the other, the President of the United States and his administration ought to be acting with some finality on this subject now, not waiting 18 months, not waiting until after the next election because it is politically expedient to do that, but making a decision now. Why is that? Because, if it does not get done here, that oil from the oil sands area in Canada will go somewhere else and some other country around the world will benefit from that. It will not be the United States, it will not be refineries here in this country, it will not be the citizens of America—who have a good relationship with our neighbor to the north. Canada is our biggest single trading partner. We do about $640 billion of bilateral trade every single year with Canada. It makes a lot of sense, if you are thinking about energy security, if you are worried about the dangerous dependence that we have on other countries around the world for our energy needs, that if we are going to get energy we get it from a country with which we have a good relationship, a country that is friendly and a country with which we do a tremendous amount of trade.

If we cannot move forward, it is going somewhere, probably to Asia, probably to China. China will get the benefit. The citizens of China will get the benefit of this project rather than having the American people benefit from all this project would entail if we could get it approved here.

But we ought to at least make a decision. We have all these discussions in this country, all the rhetoric coming from the other side about how it is so important that we create jobs in this country. Yet the administration seems willing to disregard that and say we are going to make what is clearly a political decision and put this off for 18 months until after the next election.

I think it is interesting to note what some are saying about this, and frankly even what the President himself has said as recently as last April about the importance of getting energy from countries that are stable and friendly. This is something the President said:

> Importing oil from countries that are stable and friendly is a good thing.

That is something the President of the United States said as recently as last April. There is a letter that went from 22 congressional Democrats to the President, telling him that America needs the Keystone XL Pipeline. Twenty-two Democratic Members of the House of Representatives weighed in on this issue. We have had Democratic Senators here as well who weighed in with the administration and weighed in publicly and said this is an important project that needs to be completed.

You even have the labor unions. Traditionally you would think of them as part of the President's political base. What are they saying about this? The AFL–CIO said:

> For America's skilled craft construction professionals, any discussion of the Keystone XL Pipeline project begins and ends with one word: JOBS.

That is what the AFL–CIO is saying.

Laborers' International Union of North America says it is:

> . . . not just a pipeline, but it is a lifeline for thousands of desperate working men and women.

You have bipartisan support here in Congress. You have the working people, the organizations of this country that represent working people, weighing in saying this is a project that needs to be approved, that would create jobs, that would address some of the economic angst we are feeling in this country, and here we are faced with this unnecessary delay.

We have legislation that has 40 cosponsors in the Senate. It was introduced last week. Many of our colleagues have taken the lead: Senator HOEVEN of North Dakota, Senator JOHANNS from Nebraska, Senator MURKOWSKI, Senator BARRASSO, who is here on the floor, and others who believe so strongly in the issue of economic growth, job creation, energy security, national security, that we have introduced a bill that would allow this project either, No. 1, to move forward or to have to provide a rationale why it would not move forward. It is pretty simple, straightforward legislation. It would allow 60 days from enactment of the legislation for a decision to be made about the permit, one way or the other. Either it gets permitted or, on the contrary, the President gives an explanation as to why it should not be permitted. But at least we get a decision made so there is some economic certainty for the people behind this project, the people who are making this investment, about whether it is going to go forward.

One thing we hear over and over from small businesses across this country—and large businesses, job creators—is we need economic certainty. We cannot continue to operate in this complete cloud of economic uncertainty if we are going to put investment out there and create the jobs that go with that investment.

Mr. President, 700,000 barrels a day is the equivalent of what we get daily from Venezuela. If we could get 700,000 barrels of oil today from Canada, a friendly neighbor to the north, or 700,000 barrels from Venezuela or any other countries from which we import oil, it seems so logical and such a no-brainer for us to be able to trade and interact and to have this economic relationship with Canada on this particular project. It does come across that way, as I said, in many parts of the Dakotas and Montana. It would encourage greater oil production here in this country as well, because you have the Bakkan Reserve in North Dakota and Montana which we would be able to access for this pipeline to be able to get some of their energy to refiners around this country. It is an ''all of the above'' domestic energy strategy: More domestic oil, more alternative fuels, more innovation. It is all these things we need when we talk about energy security. But clearly in this case, for some unexplained reason, the administration has concluded that this project should not go forward.

There was a concern raised earlier on about the State of Nebraska and the route the pipeline was taking. That issue has been addressed. The leaders in Nebraska—Senator JOHANNS and the Governor of Nebraska—have come together behind an alternative route which I believe was agreeable to the company, TransCanada, so you can no

longer hide behind that and use that as a shield. The legislation we are introducing would make, of course, this subject to States rights and having States such as Nebraska intervene and work with the company to find this alternative route. It also would ensure and require strong environmental protections in the legislation. So that issue is something the legislation has addressed.

More than anything else, what it does is it at least forces some action. It at least says we are going to be serious about job creation in this country or we are not. We are going to support a shovel-ready project that could create 20,000 jobs and start immediately or we are not. All this rhetoric and all the hot air that comes from people here in Washington, DC, about wanting to create jobs, this is putting it to the test. This is where you have to put up or shut up when it comes to whether you are serious about creating jobs in this country.

I hope my colleagues here in the Senate on both sides of the aisle—because I believe this is a bipartisan issue—will work with us to advance this legislation. There is some thinking that perhaps the House of Representatives, the other body, may include it in some legislation they send us that could be coming this way in the not too distant future.

If that is the case, I hope we will pick that up and act on it because if we are serious and mean what we say about job creation in this country, there is no better way than to put some certainty behind this project. Again, it would be one thing if this had not been studied and overstudied and evaluated and analyzed and scrutinized—but it has, over and over again, now for the better part of 3 years. Mr. President, 700,000 barrels of oil today from Canada and the Bakkan region in North Dakota and U.S. refineries or 700,000 barrels of oil to some other place around the world that will benefit from it and, just as important if not more important, 700,000 barrels of oil the United States will have to import from some other country around the world that perhaps is not nearly as friendly as our neighbors to the north.

This is not complicated. This is a pretty straightforward issue and one where I don't think there is anything but support from the States that are impacted by this, anything but support from the leadership, political leadership at the State level and local levels. I am not suggesting there is—there is no project that has unanimous support. There are people who oppose this as there are people who oppose almost anything that happens in this country. But the huge majority of people I think in the States that are impacted see this for what it is—a positive, forward-looking project that would address so many of the important priorities for this country right now: economic growth, job creation, energy security, national security, addressing some of the needs the State and local governments have for additional revenue. All these issues are addressed with regard to this project.

It is mystifying as to why the President of the United States and his administration would put this decision off until 18 months from now after the next election, other than purely and simply political reasons and motivations. That is wrong for the American people. It is wrong for this project. It is wrong for jobs. It is wrong for the economy. I hope this body, the Senate, will take steps to rectify that by putting a date certain out there by which this project is at least acted on, at least decided, at least permitted or not permitted—hopefully permitted—so these jobs can be created and we can get this economic activity underway in these many States.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Wyoming.

A SECOND OPINION

Mr. BARRASSO. Mr. President, I come to the floor today as I have so many times since the President's health care bill was signed into law, with a doctor's second opinion. I do that because I practiced medicine in Wyoming, taking care of families from around the State for about a quarter of a century.

When I talk to patients at home and I talk to people on the street, when I talk to folks all around my State and around the country, what I hear they want from a health care law was an opportunity to have the care they need from the doctor they want at a cost they can afford. But what we have gotten in this country through this administration and this health care law is a law that is bad for patients, in my opinion; bad for providers, the nurses and doctors who take care of those patients; and terrible for American taxpayers. So I come to the floor again with a second opinion today because I am thinking about job creation.

We just heard about the Keystone XL Pipeline and the opportunity there with a shovel-ready project to get people back to work. I am reminded what former Speaker of the House NANCY PELOSI claimed after the health care law was passed. She said it would ''create 4 million jobs.'' She went on to say ''400,000 jobs almost immediately.''

As we all know, that prediction never came true. In fact, the nonpartisan Congressional Budget Office said the health care law will actually encourage some people to work fewer hours or to withdraw from the labor market altogether.

This past week when the employment statistics came out we saw that over 300,000 Americans have withdrawn from the labor market altogether.

It is interesting that about the same time the health care law was signed, March 2010, Senator CHUCK SCHUMER, the New York Senator, claimed on ''Meet the Press'':

> . . . as people learn about the bill, and now that the bill is enacted, it's going to become more and more popular.

In fact, this health care law is less popular now, today, December 2011, than it was at the time it was signed into law.

We look at all of these predictions that never came true. It has been 20 months. The health care law's popularity remains low. The law is in front of the Supreme Court to deal with the constitutionality of this government going into the homes of American people, telling them they must buy a product. It is clear that Washington Democrats and the President have miscalculated. They made promise after promise to the American people. They asked families, they asked businesses all across the Nation, to trust them. The President promised that if you like what you have, you can keep it. The American people know that promise has been broken. The President said that premiums, health care premiums or insurance costs for families would drop by $2,500 per family per year. We know that the costs have gone up higher than if the law had never been passed in the first place.

Week after week we hear of more unintended consequences within the law, glitches that are found which show additional problems with the law and additional promises of the President being broken.

The American people know that they do not like this health care law. When you ask them do you think this health care law was passed for you or for someone else, most Americans will tell you that they think it was passed for someone else.

Today I want to talk about two specific examples of problems with this health care law and the possible unintended consequences and some of the repercussions of the things that have happened with this health care law.

One has to do with the labor statistics that came out on December 2 of this year. They released updated payroll employment and unemployment numbers. The Bureau of Labor Statistics data actually shows that health care employment was up in November. It was up for all the wrong reasons. The problem is, the health care law's excessive mandates and burdensome regulations are prompting the health care industry to create additional administrative jobs, not caregiver jobs.

The health care law was supposed to actually work to get more doctors and more nurses and more x-ray techs and physical therapists to take care of patients, but that is not what happened. Now we see it is administrative jobs that are up, not caregiver jobs. As a matter of fact, USA Today printed a half-page article, and the title was ''Health Care Jobs Grow . . . in Administration.''

The article actually talked about a New Hampshire hospital, and that hospital—according to the article—was forced to eliminate 5 percent of its