

This is a serious issue. Obviously, on the face of it, child rape is a heinous crime. But it is even more heinous when you look beneath the surface and understand more about the repercussions.

It has been estimated that as many as 40 percent of 7- to 13-year-old sexual assault victims are seriously disturbed. Psychological problems include sudden school failure, unprovoked crime, dissociation, deep depression, sleep disturbances, feelings of guilt and inferiority, and much more.

The deep problems that affect these child rape victims often become society's problems as well. Commentators have noted the clear correlations between childhood sexual abuse and later problems such as substance abuse, dangerous sexual behaviors or disfunctions, inability to relate to others on the interpersonal level and other psychiatric illnesses.

Victims of child rape are nearly 5 times more likely than nonvictims to be arrested for sex crimes themselves; they are 30 times more likely to be arrested for other serious related crimes.

Justice Alito's dissent summed up the impact and horror of the offense of child rape:

Long-term studies show that sexual abuse is grossly intrusive in the lives of children and is harmful to their normal psychological, emotional and sexual development in ways which no just or humane society can tolerate.

For all these reasons and in light of the clear fact that the Supreme Court got it very wrong with regard to Federal law on the subject, I believe this sense of the Senate is important to pass. I believe that a huge majority of Senators do and will support it on passage and that it is an important statement to make as the Supreme Court actively considers this possibility of rehearing.

I would simply like the same type of opportunity which the majority leader is giving his Members in bundling these other bills into the so-called Reid omnibus, or anti-Coburn omnibus or "Tomnibus." Why can't this provision, which has bipartisan support, which has very strong supermajority support, be passed in an expeditious way as well, so we can make our voices heard in a timely way, as the Supreme Court considers rehearing this very serious case which they got very wrong?

With that in mind, I ask unanimous consent to discharge the Judiciary Committee from further consideration of S. Res. 626, a resolution expressing the sense of the Senate that the Supreme Court of the United States erroneously decided *Kennedy v. Louisiana* and that the eighth amendment to the Constitution of the United States allows the imposition of the death penalty for the rape of a child; that the Senate immediately proceed to consideration of the resolution and that it be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection? The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, reserving the right to object and I will object, but I wish to make a comment too. First, without stating whether I would be for or against such a resolution—I have not seen the language—there are Members on the other side—on my side of the aisle who do object and on their behalf I am objecting.

I would say this to my colleague. It would seem to me whether one supports the idea of making sure the death penalty extends to rapists, that the best place, when we are dealing with the Supreme Court, is an amicus brief to the Supreme Court, making the legal arguments—because obviously the Supreme Court is not supposed to just listen to what a body such as this believes but, rather, look at the law.

So that might be the appropriate way to go. But having said that, without taking my own personal position on this, I will object.

The PRESIDING OFFICER. Objection is heard.

Mr. VITTER. Mr. President, if I can briefly wrap up, obviously I am disappointed. I understand the Senator's objection. But a great frustration in all of this, in holding bills, in filing secret holds, in everything else, is that we never know on whose behalf those objections are being made.

So I would ask my distinguished colleague if that can be made part of the record. Apparently he did not make the objection on his own behalf, he made the objection on behalf of other Senators. I think it is a legitimate part of the debate and should be an important part of the record to hear on whose behalf these objections are being heard.

With regard to the Senator's comment about an amicus brief, obviously that is being done from a number of quarters. I am participating with groups in doing that. So that suggestion has already been taken up. But I would love to make part of the record on whose behalf any objection is heard.

Again, I would ask the question through the Chair, because it has been a very elusive, frustrating part of this process and this debate, on whose behalf this objection is being made.

Mr. SCHUMER. All I can tell my colleague is more than one Member. And under the rules, I guess that has to be disclosed within 5 days.

Mr. VITTER. Well, I will look forward to that disclosure because that has been a frustrating part of this process and this debate today.

I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR.) The Senator from New York.

Mr. SCHUMER. First, before I get into the substance of my remarks, I apologize to my colleague from Louisiana. It is 6 days after which objections are known, not 5. So that was my mistake.

#### THE ECONOMY

Mr. SCHUMER. Today I rise to discuss the recent turmoil in our financial markets. Over the past few days the upheaval in New York has been extreme, as we have witnessed the bankruptcy of Lehman Brothers, one of the oldest and most well-respected financial institutions in the world, the purchase of Merrill Lynch by Bank of America, and the Government takeover of AIG, America's largest insurance company.

Those stunning developments followed closely on the heels of the Government takeover of Fannie and Freddie a mere 10 days ago. And I watched with great sadness those lining up at some of these companies to take their belongings away after years and years of work and heard the tales of woe from my constituents.

Our job here is to cushion the blow for those who are innocent of any wrongdoing and have lost their jobs. I am trying to do all I can to minimize job loss in New York. But it is also to prevent this from happening again. That is why I rise to speak today, to lay out an outline of principles, and a broad-brush plan that might help us deal with this crisis.

These unprecedented events have made it clear to the country what many of us have been saying for some time. We are in the midst of the greatest financial crisis since the Great Depression. After 8 years of deregulatory zeal by the Bush administration, an attitude of "the market can do no wrong" has led it down a short path to economic recession.

From the unregulated mortgage brokers to the opaque credit default swaps market to aggressive short sellers who are driving down prices of even healthy financial institutions based on innuendo, this administration has failed to take the steps necessary to protect both Main Street and Wall Street.

There may not be a silver bullet to fix what is currently dragging down the economy, but we can take steps to mitigate the costs and ensure that the impact of this crisis will be short term. We need to offer a smart, targeted, and timely solution that will help our economy weather this storm and keep as many families from losing their homes in the process as we can.

Every minute matters, and the future competitiveness of the U.S. economy depends on the administration's response. The series of ad hoc interventions in the market over the past 10 days were important to avoid a systemic disaster, but we cannot continue to act in such an uncoordinated and ad hoc fashion.

Furthermore, the Federal Reserve is being asked to do things that go far beyond its mission. I represent 19 million New Yorkers, many of who live on Main Street and work on Wall Street. So I know better than most that our response has to be aimed at both areas. It must protect the downstate economy, and the upstate economy. And

the two—whatever one feels or wants to say—are intrinsically linked. Make no mistake about it. The reckless lending practices and irresponsible risk taking conducted by many of our financial institutions during this era of deregulation have proven costly for the U.S. economy and its taxpayers.

The Federal Government cannot and should not write a blank check to the institutions that have exacerbated this crisis. The U.S. taxpayers have already extended \$300 billion worth of capital to troubled banks and financial institutions, asking for nothing in return.

So starting today we need to condition the Federal Government's financial lifeline on the institutions' firm commitment to take actions to get us out of our immediate economic crisis. If the Federal Government is going to continue to support the economy, its new formal lending program with financial institutions must address both the need for restoring stability and confidence in the U.S. financial market, and the need to set a floor in our plummeting housing market.

Some people focus on one, some people focus on the other. The fact is we need both. We are not going to get out of this great mess unless we deal with the mortgage crisis and the homeowner, and we deal with the cycles in our financial system which not only affect Wall Street and its jobs, of course, and my constituency, but affect all of America, because lending is the lifeline of the economy.

Someone from Chrysler told me that right now you need a FICO score of 720—that is a credit rating that is very high—to get an auto loan. If that continues, we would only sell 10 million cars in America next year as opposed to the 15 or 16 million we sell now. That shows you the interrelationship right there. The auto worker is related to the financial institutions. We must fix both in a practical, nonideological solution aimed at getting our economy back on its feet.

The rapid deterioration of the financial sector is fueled by the steep rise in delinquencies and the foreclosure of risky mortgages that have been sliced and diced and sold in complex instruments that are becoming rapidly toxic waste on the balance sheet of our largest financial institutions.

The best way to stop the bleeding is to turn these mortgages into viable assets on a large scale. But the combination of an economic downturn, tumbling home prices, complex mortgage security, and irresponsible underwriting by unregulated mortgage brokers has made this a daunting and so far insurmountable challenge.

Over the past few years we have heard many discussions of a so-called RTC, Resolution Trust Corporation, and RTC-like proposals modeled after the Government-owned asset management company charged with liquidating assets after the 1980s S&L crisis.

Today, Senator McCain made a similar proposal. And before I address that,

let me speak for a minute on Senator McCain. He has been a leading advocate for deregulation for a very long time. All of a sudden, he sounds almost like a populist. He seems to reverse course day in and day out.

Two days ago he said: AIG should not be aided by the Government and should go bankrupt. And today he is calling for large Government intervention in the financial markets. It is no wonder that Senator McCain said he does not understand economics. His erratic behavior in the last 2 days is inconsistent—saying one thing on Tuesday and another thing almost directly opposite on Thursday—makes you understand why people would not trust him with the economy.

Today he called for the firing of Chris Cox of the SEC. Well, I have a lot of differences with Chris Cox and with the SEC. They have been far too deregulatory to me. But where does Senator McCain differ in policies with Chris Cox? Does he have a different view on short selling? Does he have a different view on holding company regulations? Who knows? Maybe he will replace Chris Cox with Phil Gramm who considers someone who lost his job a whiner, and considers all of us hurting in this economy a "nation of whiners."

It is hard to take the proposals by Senator McCain very seriously unless he backs them up, not only with detail, but with consistency and a philosophy.

But getting back to his proposal today, something of an RTC-like company, the central challenge with that approach, and anyone who is advocating the RTC—and my colleague Senator Dodd has outlined this very well recently—is that the Federal Government would take on all of the risk of the bank's troubled assets without addressing the root of the problem, the housing market.

Proposals such as Senator McCain's may help Wall Street but they will do nothing for Main Street. Two major problems exist. First, troubled mortgages have been sold into complex mortgage-backed securities which have themselves been split into pieces and sold to thousands of investors around the world.

In order for an RTC to be able to modify the mortgages, it would have to gather up all of the pieces of every security and put the proverbial puzzle back together. This would be incredibly difficult and virtually impossible. That is why the proposals by Secretary Paulson, as well intentioned as they are, have done very little in the foreclosure area. Because if one investor of the hundreds who hold a piece of a mortgage says "no," there can be no refinancing, no reformulation. It is a huge problem.

Second, even if it were possible for borrowers to have piggyback loans on second mortgages, which is an estimated 50 or 60 percent of the troubled mortgages, the RTC would have to go back and buy the second lines as well in order to work out the loan.

In other words, even with the first mortgage, if you could get all of those hundreds of pieces together, there is a second mortgage in 50 to 60 percent of these troubled mortgages and the second mortgagors or mortgagees are not going to stand for—the first mortgagors are not going to stand for reducing their mortgage while the second mortgage is as large as ever.

In short, the complex structure of the most troubled mortgages underwritten over the past several years would prevent an RTC from being able to help most homeowners. Furthermore, it seems like the RTC is Rashoman these days.

Some propose the name "RTC", like the Wall Street Journal financial page, to buy financial instruments; some propose it to deal with the mortgage situation, which is difficult, as I mentioned. And I think when we look at the specifics, the RTC model is not the best way to go. In fact, it might not work at all.

Therefore, I am proposing that we examine a two-part approach that will help suffering homeowners across the country keep their home and restore stability to Wall Street.

First, we must get banks and other financial institutions to drop their fierce opposition to judicial loan modification in exchange for any additional assistance from the Federal Government.

This year my colleague, Senator Durbin, led legislation in the Senate that many of us cosponsored that would make a simple change to current law to allow judges the authority to modify harmful mortgages on primary residences. The industry adamantly lobbied against this legislation, arguing it would harm the secondary mortgage market. Simply put, this is wrong. Between 1978 and 1993, when such modifications were allowed, the evidence is clear. It had no impact on the secondary mortgage market whatsoever. What is even more absurd, a judge can already modify a mortgage on a second home. So if you own two homes—or seven homes—the bankruptcy court can help. But if you are like Joe and Eileen Bailey and most of us and you only have one home, which is, by the way, also your largest and most important asset, and you find yourself in trouble, there is nothing a bankruptcy judge can do.

This critical solution is achieved by simply removing the bankruptcy law's language that denies relief to homeowners for their primary residence. Court-supervised loan modification is the simplest, fairest, and least expensive way to get all the parties of a mortgage together and modify the loan down to the fair market value of the home with no cost to the U.S. Treasury. This provision also guarantees the lenders at least the value they would obtain through foreclosure, since a foreclosure sale can only recover the market value of the home. In addition, it saves lenders the high cost and significant delays of foreclosure. Because

bankruptcy is enshrined in the Constitution and because the bankruptcy judge has the power, unlike the mortgage processor, to require all the parties to come together, this can work and, again, at no cost to the Federal Government.

Second, to restore confidence in financial markets and institutions, rather than continuing to intervene on an ad hoc basis as additional companies face problems, we should look at options to formalize ways for the Federal Government to provide capital injections and secured loans for banks that are struggling. This will give financial institutions the capability to de-lever their balance sheets and write down their bad assets over time. The rapid failure of a large number of financial institutions would have a disastrous long-term effect on the American economy, a situation we must avoid at all cost. The Government could establish a new agency similar to the Reconstruction Finance Corporation or RFC-like model employed during the Depression. The RFC is far preferable to RTC. But we must condition the development of this formal structure on the agreement of banks to abandon their opposition to judicial loan modifications, and not only banks but others who hold pieces of mortgages as well. An RFC-like agency would receive equity and possibly secured debt from the banks in return for providing capital or liquidity. The equity received by the Government would allow the Government to share in any upside appreciation of the banks and minimize taxpayer costs in the process. The RFC would also get some degree of oversight lending activities of banks it has invested in, and the Government would come first. The Government would get repaid before others in the financial chain.

I represent the State of New York where many of my constituents live on Main Street and many work on Wall Street. Both are in dire trouble. We have the largest city in the country, and we are the financial capital of the world. We have upstate New York which would be the seventh or eighth largest State in the country. In addition, we have the third largest rural population. Right now all are in trouble because in this complicated economy all are interrelated. We have a responsibility to address the problems faced by both homeowners and financial markets. Attempts to solve only one side of the equation will not get us out of this crisis. Without a comprehensive solution that helps keep people in their homes, no amount of money advanced by Uncle Sam will restore the fundamental strengths of the American economy.

Chairman Bernanke has said it over and over again: Until we solve the mortgage problem, we are not going to solve our economic or even our financial problem. But unless we also solve our financial problem, the economy will not recover, and the housing problem will get worse. So we need to do

both. Those who say just do one or the other, for ideological or policy reasons, will not come up with a solution. The solution I have proposed does both, and it links the two. To those who say the Government can't get involved in these institutions for no cost, we are making sure there actually is a cost, not only in the repayment plan but in the fact that they will have to treat mortgages differently and help beleaguered homeowners. By doing that, they will help the economy.

To those who propose a plan of just helping the homeowner, worthy as that is and as much as I have worked hard and believe in it, if our financial institutions and our financial lifeblood continues to be brittle, frozen, and sparse, it will be far more difficult to solve the homeowner problem because the economy will get worse, housing prices will go down, and the cost and ability to keep mortgagors in their home will be less.

This solution represents the best way to get us out of our financial crisis in a comprehensive way. It should have appeal to those on both sides of the aisle. Most importantly, it is a solution that deals with the entirety of the problem in a comprehensive way.

Given our economy hurtling southward, given the horrible stories we read in the newspapers every day about those who work on both Main and Wall Streets hurting, we cannot afford not to act.

I yield the floor.

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

Mr. MENENDEZ. I understand we are in morning business.

The PRESIDING OFFICER. The Senator is correct.

Mr. MENENDEZ. Madam President, because of the hard work of Chairman BAUCUS of the Finance Committee, Senator CANTWELL and several others, we may—I say “may” and I will talk about that in a moment—have finally secured a deal to extend the renewable energy tax credits and to temporarily fix the alternative minimum tax. If we can do this, it is a huge accomplishment that will generate hundreds of thousands of new, green-collar jobs, stimulate the economy, improve our energy independence, and lower energy costs for all Americans. And it cannot come too quickly, as we heard from our distinguished colleague from New York.

Unfortunately, in order for the Democrats to secure a deal to do this, we had to agree to a bill that, in my opinion, is not as strong as previous versions of the bill. On eight separate occasions, our Republican colleagues had the opportunity to keep the rapidly developing wind and solar industries growing at an astonishing pace. But, instead, they decided to play politics. Time after time, Republicans filibustered and then voted to block consideration of proposals to extend critical tax credits for wind, solar, biomass, and geothermal energy. So

Democrats had to sit down with our colleagues from the other side of the aisle and work out a deal.

I have heard a lot recently about how Washington is broken and how there needs to be a greater spirit of bipartisanship. I agree. But I want the American people to understand that comes at a price. What is often overlooked is there is a price to be paid for that compromise. In this instance, the price being paid is \$8 billion over the next 5 years to big oil. In essence, at a time when financial markets are in turmoil, banks are failing, Americans are struggling to make ends meet, Republicans have required a big oil bailout, a bailout for the most profitable industry in history, at a time when they are beating their own record profits.

I also have concerns about some of the oil shale and tar sands provisions of the bill in an environmental context. But on balance, based upon the circumstances of where we are and what is possible, this bill will do a lot more good than harm.

Renewable energy is essential for our environment and our economy. But renewable energy is, most importantly, the opportunity to produce massive amounts of domestic, clean, cheap energy and generate hundreds of thousands of new jobs in doing so. Simply put, renewable energy is a core solution to our energy woes and a massive business opportunity. Don't take my word for it. Just ask landowners in Texas or Minnesota or Iowa or Wyoming who are receiving \$3,000 to \$5,000 per month for allowing a windmill to be sited on their property. Or ask oilman T. Boone Pickens who is plowing billions of dollars of his own money into wind energy, even though he made his money on oil and has a plan to use renewables to end our addiction to oil.

Last year the United States installed enough wind turbines to power over 1.5 million homes, and the solar power industry is growing at over 40 percent a year. In fact, over one-third of all additional electric power capacity that was added to the grid last year was from renewable sources. So despite claims by the Republican Presidential nominee, these technologies work. They work now, and they are producing an enormous amount of energy.

They have done so in large part because of the leadership and investment by the Federal Government in incentivizing those renewable energy industries. By extending the wind and solar tax credits so these industries can continue their rapid growth, we could easily add 150 gigawatts of installed capacity within 10 years.

What does that mean? That is enough electricity to power over 37 million homes. By 2030, even if we do not pass additional policies to create a national grid or further incentivize distributed energy, we could get well over 25 percent of our Nation's electricity from wind and solar power.

This tax package also has a very important provision to help us transition from oil to renewable fuels. The bill

contains a large tax credit for the purchase of plug-in hybrid vehicles, cars such as the Chevy Volt which will be able to run solely on electricity only for the first 40 miles after being plugged in.

If projections by some experts hold true and half the cars on the road in the year 2030 are plug-in hybrids, we could easily cut our use of oil by one-third or more. By this time we would be producing enough renewable energy to power all of these cars and still have electricity to spare. If we want cheap gasoline, to be free from imported oil, create hundreds of thousands of new jobs, then we need to pass this tax credit extension. It is that simple.

I am relieved in one sense that my colleagues on the other side of the aisle have finally come to the table to let us vote on something that will actually produce energy, but I am concerned that there are still those objecting to us proceeding. This fall, voters, however, are not going to forget that the price the Republican Party has forced on the American people in order to get to these renewable energy sources is to continue \$8 billion in subsidies for big oil. When the American voters see that, they are going to have a much different view of what they do in these elections, and we will see a very different Federal Government come January.

I also want to address another essential piece of the tax extenders program, and that is the temporary fix of the alternative minimum tax. New Jersey's hard-working families deserve real tax relief. More than 70 percent of the President's tax cuts have gone to people making over \$200,000, while families who earn anywhere between \$50,000 and \$75,000 have received less than 5 percent of those cuts. Yet the President has done nothing to make the AMT exemption permanent, a tax which, in the next 4 years, would affect nearly every family of four earning between \$75,000 and \$100,000 if nothing is done.

The President has directed all his efforts, priorities, and the Nation's bank account to tax breaks for the wealthiest, leaving little room, let alone money, for the reforms that will affect nearly 24 million middle-class families.

When Americans wonder why there has been little attention on what most tax analysts refer to as the "single most important tax issue" facing the Nation, they should know that it is because tax cuts for the middle class have clearly not been a priority of this administration.

I am glad we are moving in this Democratic majority in a different way. The fact is that, without this bill, middle-class families will be faced with a harsh reality at the end of the year. In my State of New Jersey, where roughly 270,000 families were subjected to the alternative minimum tax in 2006, the number of middle-class taxpayers subject to this tax would explode if no fix is enacted. Average families, who are far from wealthy, could

face significantly higher taxes this year if we do not act on the crisis at hand. This fix makes very clear that our priority should be to protect middle-class families from an unintentional tax hike, and that millions of taxpayers should not wake up next tax season to realize they owe more in taxes even though their income has not changed.

Let's remember, this was a tax intended to ensure that those making over \$200,000 a year were not able to game the system and avoid paying any taxes toward the common good at all. It was never intended to raise the taxes of average Americans.

So let's send a clear message that the values we embrace are the values of helping American families. Let's embrace fairness and equal treatment for those who are working hard. We can do that in this bill.

Finally, let me thank again Chairman BAUCUS and others for their hard work in crafting this legislation to extend the renewable energy tax credits and to temporarily fix the alternative minimum tax.

But I do urge my colleagues who are objecting to bringing up this legislation to drop their objections. You cannot expect more for oil than even what you have gotten in this bill. These are obstacles the American people clearly cannot afford at this time, that this country cannot afford at this time in one of the worst financial times.

This will be one part of a solution to move us in a direction that creates jobs, that can stimulate our economy, that can break our dependency on oil, that can do something about our environment and, at the same time—and, at the same time—ensure that we give relief to middle-class families through that relief in the alternative minimum tax.

I hope if, in fact, we can get through our colleagues' objections—the majority leader has tried to bring up this bill already—if we are able to do so, we can send a message as this week comes to a close that the Senate is finally on the way to giving relief to American families in a real, meaningful way, and as people are losing their jobs in this economy, we can be at the threshold of creating a new generation of jobs in which people will be able to prosper and the Nation will be able to meet its energy needs for the future.

Madam President, with that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WYDEN. Madam President, I ask unanimous consent to speak as in morning business.

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

#### TAX EXTENDERS

Mr. WYDEN. Madam President, there is extraordinary economic hurt in much of rural America this evening, and that is especially the case in my part of our country in rural Oregon. We are going to have a chance to do something about that with the tax extenders legislation. I come to the floor today to urge its passage.

A number of colleagues have been wondering about the folks in green shirts who are out and about on Capitol Hill this week. These are some of the country's best people committed to making this country a better place, and they are here because they come from communities where the Federal Government owns much of the land and the Federal Government, regrettably, has been talking about breaking its commitment to these communities.

About 100 years ago, the Federal Government entered into an agreement with these communities. In effect, the Federal Government said: When the National Forest System is created, so it benefits people across the country—in Minnesota, in New York, in Florida, and all across the land—because we are going to have property owned by the Federal Government, we will assist those communities with funds for schools and essential services.

That worked for a number of years when the timber cut was fairly high and we were able to get the funds those communities needed for essential services. However, when the laws began to change in the 1990s and timber cut went down, all of a sudden those communities were hard-pressed to keep the schools open in my part of the country and to make sure there was essential law enforcement service—on the beat fighting methamphetamines and providing key services on our Federal lands. So in 2000, I authored a law with our friend and colleague, Senator CRAIG, and brought those communities money for schools, money for essential services, but regrettably, that money has run out. As the revenues and benefits that we receive from our national forests change with the times, Congress simply can't walk away from its responsibility to provide funding to rural counties.

Now, because of the good work particularly of Chairman BAUCUS and Senator GRASSLEY, there will be an opportunity to renew our commitment to these rural communities and to do it in a way that is going to allow these communities, after a few additional years, to get into additional opportunities for economic growth and creating good-paying jobs for their citizens. For example, I have said that if we pass this legislation—and it authorizes \$3.8 billion in desperately needed funds for rural schools and essential services—we are going to use those 4 years so that at the end of that period, our rural communities can be involved in a number of other economic development activities that will allow their communities to prosper. For example, we