regulation and more teeth in the Consumer Product Safety Commission to get lead paint out of toys and the lead out of the bureaucracy. I voted to strengthen FDA regulation to make sure it did not approve dangerous drugs. I also worked to stop predatory lending and flipping in the mortgage market.

I remember way back in 1999 how all this banking mess got started. Phil Gramm, a Senator from Texas, and Bliley, a House Member, advocated something called the banking deregulation bill. It passed, and it got us into this mess because it got rid of the distinction between investment banks and commercial banks, and lowered the bar on regulation. It allowed for casino economics.

During that debate, and that vote, I was one of nine Senators who voted against it because I said with what we were doing we were going to create an environment where we were creating whales and sharks, and the minnows would be eaten alive. Well, regrettably, my prediction proved right. During that debate, I was told: Get with it, BARB. We are in a global market. You are kind of old-fashioned.

You bet I am old-fashioned. I believe in old-fashioned values called honesty, integrity, putting the public good above private interests. Wall Street went around acting as if they were masters of the universe. Now they have taken us into a black hole in our economy.

We need to get back to basics, whether it is regulating toxic securities or tainted dog food. Our leader, Senator DODD of Connecticut, has done a masterful job in improving this bill.

But while we are looking at reform and regulation and rescue, there are those who also say: Are there going to be any heads that roll? Well, you bet. What we are doing here is for those who said ''let the good times roll,'' we are making sure we are bringing in the FBI so that heads roll.

I went to work when I smelled this crisis coming in January and at an Appropriations hearing said to Director Mueller of the FBI: What is happening in terms of mortgage fraud? He said: Senator MIKULSKI, we now have over 2,000 investigations going on. It has now tripled in number. I said: Do you need money?

He did not want to answer because OMB, the Bush administration, did not want to say they did. But working on a bipartisan basis, we added several million dollars to hire more FBI agents. And right this minute, they are investigating mortgage fraud, predatory practices, deceptive marketing, lending schemes, and so on.

So Senator MIKULSKI, while voting for reform, also made sure she has the FBI coming in against the scam artists who also helped get us into this mess.

So, yes, I have supported reform. Yes, I have supported going after the real crooks and the bad guys. Because not everybody in the mortgage market or in mortgage securities or in our financial matters is a crook. But we have to restore confidence. The way we will restore confidence is to vote for this rescue plan. It will deal with the credit crisis. If we do not deal with the credit crisis, I believe that Main Street economies will pay the bill, we will have to pay the bill for the bailout, and we will pay the bill once again in lost jobs, the ability to get a loan, and also with shrinking retirements and pensions. So, Madam President, I will vote for this bill. But I have heard the taxpayers loudly and clearly.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, once again, I thank my colleague from Maryland. We have served together a long time here over the years, and her passion, her eloquence are consistent in that same voice I heard several decades ago as a new Member of the House of Representatives. She has never retreated from those values. Once again, I heard them again today.

She is absolutely right, in my view, and I will speak at some length why this legislation is necessary, but also, as importantly, that the steps be taken so we never see America face another day such as this one again. So I thank my colleague from Maryland.

ORDER OF PROCEDURE—H.R. 1424

Mr. DODD. Madam President, I ask unanimous consent that with respect to H.R. 1424, in addition to the controlled time specified in the order for consideration of the measure, any other available time until 7 p.m. today be equally divided and controlled between the leaders or their designees, and that when appropriate Members speak in an alternating fashion—Democrat, Republican—that if two Members of any one party speak sequentially, due to availability, then it be in order for two Members of the other party to speak sequentially, if available; that prior to the vote on passage of H.R. 1424, as amended, if amended, the leaders may use whatever leader time they deem appropriate, and that the remaining provisions of the order with respect to this measure be in effect.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PAUL WELLSTONE MENTAL HEALTH AND ADDICTION EQUITY ACT OF 2008

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to H.R. 1424, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 1424) to amend section 712 of the Employee Retirement Income Security Act of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, and for other purposes.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, as to that last unanimous consent agreement, let me translate that into English. Sometimes these unanimous consent agreements get a little confusing. What we are going to try to do over the remaining 3½ hours or so is to divide the time equally. The minority side has agreed to limit their Members to 10 minutes each. I have not made a similar request here, but I will at some point if Members are not understanding of the desire of everyone to be heard—or almost everyone—on this matter.

At a point in the next few minutes, I will share some remarks that will explain how this bill has arrived to the point that it has and why I think it is important we support this effort this evening.

Again, I am very grateful. I will have some comments to make about JUDD GREGG, my colleague from New Hampshire. Certainly, MAX BAUCUS, the chairman of the Finance Committee, has been an incredible ally and supporter over these last 2 weeks trying to fashion something that would give us a sense of confidence about emerging from this economic crisis. But I will reserve some comments in a few minutes about all that.

I see my colleague from Tennessee, who I would like the RECORD to reflect, while he is, I think, the most junior member on the minority side in the Banking Committee, his contribution should never be calibrated by the seat in which he sits in terms of seniority. I want my colleagues to know while BOB CORKER has not been a longtime Member of this body, his contribution is that of a very senior Member of this body. It has been invaluable.

He is knowledgeable, thoughtful, pragmatic, and made wonderful and comprehensive suggestions to the product we have before us today. I want my colleagues to recognize that. So I thank Senator CORKER of Tennessee for being a very good Senator in a moment such as this, which is a sad day, as I said earlier, but a day which we must address.

So with that, let me yield the floor for Senator CORKER to make some comments.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Madam President, I say to the Senator: Mr. Chairman, I thank you very much for those comments. I want to tell you, I have been in the Senate now for about a year and 9 months, and the way the Senate has responded over the last 10 days I am very proud of, and I thank you for your leadership on the Banking Committee.

I think the negotiations that took place right after the, quote, Paulson plan came forth have created a vehicle that will be successful.

I know your leadership was there, with your demeanor in dealing with people on both sides of the aisle, in making sure all good ideas were heard, but then, at the same time, shepherding forth a bill we can vote on tonight—one that is steeped with taxpayer protections, steeped with oversight, and gives the citizens of our country what they need to ensure they are protected.

I know, as you mentioned, all of us are angry at the situation. I know each of us hears the phone ring in our front offices and knows the number of people across the country who are upset we, as a country, are where we are. But, I say to the Senator, what you have done, Mr. Chairman, and what those who have worked with you at the table and people throughout this Senate have done, is to put aside blame, not let the anger cloud our judgment.

Certainly, there are things we want to deal with when we come back in January to ensure this does not happen again. But I think what you have done and what KENT and others in this body today have done, sitting at the table and in meetings and building support, was to let cooler heads prevail.

Let me say to you, thank you for letting me serve with you. I want to thank everybody in the Senate for the way everyone has responded to this critical situation.

We can spend a lot of time talking about how we got here, and I know there are colleagues who are bringing out old news articles about certain things that were said years ago to try to sort of express, if you will, their frustration. But, obviously, the matter before us is to solve this problem, to make sure we deal with it in a way that is appropriate to the American people.

I have been on the phone this week with bankers across our State. I was just on the phone with businesses across our State. Many of them are already dealing with this credit crisis. Many of them are very aware of how this can overwhelm the citizens of our State. Obviously, our care in pursuing this rescue package is to make sure that those hard-working people all across this country who wake up every day and do the things they are supposed to do—save for retirement, save for their children's education—are not tremendously adversely affected by excesses that have occurred in our financial systems.

A lot of people are having difficulty sort of comprehending, if you will, what has happened with our financial institutions. We have had a lot of discussions about technical issues, regarding the derivatives and regarding toxic assets and those kinds of things. But we have an adage in Tennessee talking about our farming community, our agriculture community that has to do with something called being land poor. In other words, people have assets, but those assets are not usable, if you will, to pay the monthly mortgage and to pay other kinds of things. Right now our financial institutions have assets on their books they cannot transfer. They cannot create liquidity. This is seizing up, if you will, the credit markets throughout our country. There is a lack of trust that exists between our financial institutions. My fear is if we don't do something prudent and drastic at this moment in time, again, those very hard-working people across our States will be very adversely affected.

Look, there are a lot of ways we can deal with this problem. There are a lot of ideas about how we place equity back into our financial markets. They all end up at the same place, and that is we have to create a cure, if you will, for the lack of liquidity, having those frozen assets on the books of these financial institutions.

I believe if the Treasury Secretary and those around him who are properly overseeing this carry out their responsibilities in an appropriate manner, with any degree of prudence—and I believe they will with the oversight measures we have built in—this is something where the taxpayers will not only get their money back but should, in fact, get a return. As all of us know, all of this money is coming back into the Federal Treasury to be spent to reduce our Federal deficit.

So let me say tonight, to me, is critical. It is something that is an unpleasant task because the general public sees this as something, in some cases, other than what it is, and that is something that is directly helping the people across our country. I think there is a reason for their anger. I, too, share that anger. But at the end of the day, this is something I believe needs to pass.

Upon passage, the next step that needs to occur is that the Treasury Secretary and all of those working with him need to put in place a very prudent, a very transparent process so that all of us can see the value of these assets that are being bought in real time. So tonight's vote is very important.

The next phase is also very important as it relates to making sure this vast amount of money we are talking about actually comes back into our Treasury.

Then there is a third component we all need to be committed to, and that is when we come back in January, we need to work together, as we have during this crisis, to be sure this never happens again. I know the chairman of our Banking Committee and all of us have been stunned at the fact that financial institutions could own hundreds of billions of dollars of assets outside the knowledge of regulators.

So tonight, to me, this vote in this body is the first step in a three-step process; that is, immediately giving the Treasury Secretary the ability to deal with this crisis in a way that is prudent, that gets our banking systems back in more of an orderly process, ensuring that payroll checks are cashed, that home mortgages are obtainable, and that student loans are obtainable. The second step is staying involved in ensuring that the Treasury Secretary implements prudent policies in making sure the taxpayer money comes back. And the third step is making sure we reform this process so these types of excesses never happen again.

Let me say in closing on that topic, I started out very skeptical. When we began talking to Secretary Paulson in our banking hearing, I was skeptical of his three-page bill. I think this body, working with the House, has exercised the right amount of due diligence and oversight. I think we have a bill tonight we can be proud of. There will be human mistakes made down the road. But we have a bill in place we can be proud of. I urge my colleagues to strongly support this legislation to help our country avert what I believe will be one of the greatest fiscal crises, financial crises, we will have dealt with as a country in modern times.

I wish to thank Chairman DODD for his leadership in this crisis, and his steady hand, which I believe with all my heart is going to make this country stronger.

Madam President, if I could have 2 minutes with unanimous consent to speak as in morning business, I would appreciate that.

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

TRIBUTE TO SENATORS

Mr. CORKER. Madam President, there are a number of distinguished Senators who are leaving this body this year. I know there have been a number of tributes given to all of them and their service. Senator WARNER is a very distinguished Senator whom I have known, it seems from afar, almost all of my life. I have watched him with great admiration, and I have watched him lead us on the Armed Services Committee. CHUCK HAGEL, who exercises this tremendous independence, somebody with whom I have really enjoyed serving on Foreign Relations; WAYNE ALLARD from Colorado who is honoring a two-term pledge to leave this body after two terms to go back to the people of Colorado, he has been distinguished in his service on the Banking Committee; LARRY CRAIG of Idaho who, again, in the energy area, has offered great counsel and made sure that wise decisions were made in that particular committee—I honor all of them. I wish them well. I think we are all better having had the opportunity to serve with them.

PETE DOMENICI

There is one particular Senator with whom I have spent more time than the others just because of committee assignments, and that is PETE DOMENICI. PETE is the ranking member on our Energy Committee. I have loved listening to his many insights. He has with him Frank and Scott who, hopefully, will stay with us and who, together as a group, I think have offered wise counsel to all of us on that committee.

There is something about PETE, though. His kindness and his encouragement to me as a person have been most unique. As Chairman DODD mentioned earlier, I am one of the most junior Members here, but PETE has constantly encouraged me to step out, to make my positions known, to go ahead and forget the fact that I am positioned where I am here in the Senate and to take on a leadership role where it is important for me to do so. There is a special place in my heart for people such as PETE DOMENICI who encourage all of us to step out and to try to exercise our full potential. I will miss him greatly. I know he loves this body. I know that in many ways he will be lost as he leaves this body. But I want to assure him today that as he leaves, this is one Senator he has encouraged, he has caused to be a better person, and PETE DOMENICI will always be a part of the Senate service I offer in this body. So I wish him well. I wish the others well.

Mr. DODD. Madam President, I thank my colleague from Tennessee. Again, I appreciate his tremendous efforts that have brought us to this moment.

AMENDMENT NO. 5685

I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 5685.

Mr. DODD. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. DODD. Madam President, I wish to take a few minutes to describe this amendment to my colleagues at this hour. I wish to talk as well about some of my colleagues who have helped us get to this point.

There is a crisis in our country. That has been said so many times now. I hope the impact of that statement is not being lost because of the repetition of it. We need to address it swiftly and forcefully. That is why we are here today.

Normally, when you talk about bringing up a bill, there is a certain amount of joy involved in putting something together that you think is proactively going to make a difference. In this case, we are coming together around a proposal and a bill that is in response to a situation that has angered millions of Americans and angers most of us here to be in this situation but also heightens the sense of responsibility that requires us to act. Therefore, we will spend the next few hours sharing with each other, as well as with the American people, why we are in this situation, to some degree, but clearly what our response is to it and our hopes that this proposal will make the difference that many Americans expect.

If Americans doubt we are living in perilous times in our Nation's history, they need to look no further than at what is happening in the financial markets over the last few days. Clearly, this is no ordinary time, no normal economic downturn. This is a day unlike other days. This crisis, and the choice it demands, is unlike few we have ever seen before, even those who have served in this Chamber for several decades. This Chamber may not be full, but millions, in time, will hear the words we speak, and millions will feel the vote we cast around 7 p.m. this evening. In the end, once the reputations we stake, for good and ill, have long since gone to dust; once this day has turned from flesh and blood to textbook page for a child who is not yet born; one of two things will be said about us and how we acted on this heavy day. They will say the Senate did what was right, or they will say the Senate washed its hands of this problem and walked away.

If this bill could be written as starkly as that, the vote would be unanimous. But bills never are. They are full of jargon and verbiage and compromise, and as necessary as they are, they can crust over and obscure the essence of our choice. We read stories of foolish choices in our history books and from our safe distance, it is so easy to shout: Why didn't they know any better? But up close, in the flesh and blood of the moment, even on a day such as today, making the wrong choice can be supremely easy.

Nearly eight decades ago, the men who sat in these chairs—and there were only men in those days—were faced with a crisis not unlike the one we face today. They faced a recession that threatened to turn much worse. They did what was easy. They lashed out at the world and threw up huge barriers to trade. They found someone to blame—not because it was good economics but because it felt good. President Hoover signed the 13 letters of his name with six gold pens and launched a trade war. The world retaliated. Commerce shut down. And passing a bill that felt good drove us deeper and deeper into depression.

This week, on both sides of the Capitol, I could imagine how pleasant it would feel to vote no. In that respect, those who stand on the other side of this issue will have a much happier week. What a rush of affirmation they will get as they stick a finger in the eye of the bankers and the tycoons whose greed brought us to this crisis. Believe me, I can sympathize.

But after the vote has been cast for pique and for spite, what then? After the rush of righteousness fades, what then? It has been said: ''Let justice be done, though heavens fall.'' It is a noble thought, but it is much easier to say when the heavens are in no danger of falling on you. Who will they fall on? They will fall on the million or more families who can lose their homes. They will fall on the mothers and fathers telling their children that the college loan isn't coming through and struggling to explain why. They will fall on workers laid off all over this country as credit dries up and as businesses fail to make their payrolls and as they send their employees home with pink slips through no fault of their own.

We are one Nation, one economy, and one body. We can take a cut at Wall Street, but Wall Street will not feel the worst of the pain—not by a long shot. The blood will not come from them. My colleagues know who will feel the pain, who will be bled the most by this crisis: those whose economic world is made up of credit cards and mortgage payments, not hedge funds and credit default swaps. The men and women and families we represent will feel the pain of a ''no'' vote.

The world will feel the pain, too, I might add, men and women and families just like ours who don't speak our language, who are asleep on the other side of the world as I speak these words right now but who are bound to us in a web of commerce more tightly than ever before in world history. They are watching, too, I might add.

Today's Washington Post quotes a banker in Germany, a man who did nothing to cause this crisis but who will suffer from it as much as if he did. And his faith in America, even now, even today, ought to inspire each and every one of us in this Chamber.

Let me quote him for you:

All I can say is that I simply cannot imagine that the Americans will not come up with some sort of a solution. Anything else is outside the realm of my imagination.

Outside the realm, Madam President, of his imagination that this Senate of ours will not solve this problem, in conjunction with the work of the other body. He is speaking of a nation of doers, of fixers, of problem-solvers, of people with optimism and confidence in our future. We can be that Nation again. In fact, we must be.

Madam President, I love my job here in the Senate. I normally sit in the seat right behind me here, my father's desk. I sit it in every day, have for 28 years. I love that desk, love this Chamber, and today there is not a place I would rather be. I am sure my colleagues, each one of them, have their own stories, 100 of them, of their love of this job and of this place and what it means to be a Senator. But how can we possibly weigh those hundred jobs, if you will, against the 600,000 or more that have been lost in America just this year alone and the million more that could follow if we could save those jobs by giving up our own? How could we not? Who could come to this floor and say with a clean conscience: I will save my job but put hundreds of thousands of jobs at risk all across this great country of ours. I don't believe a single Member of this body, regardless of party, would ever make that trade. They would be willing to give up their job to save that of others.

As Edmund Burke said to his constituents centuries ago:

The legislator's ''unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure; no, nor from your law and the constitution. They are a trust from Providence, for the abuse of which he is deeply answerable.''

I am answerable today, as are all of us in this Chamber, and I intend to answer correctly. I intend to answer yes, we ought to do this to get our country back on its feet again. That is the job of a Senator.

By now, it is well known how we arrived at this critical moment. Years of what Secretary Paulson himself has called bad lending practices went essentially unchecked by a regulatory system that was not on the job. These bad lending practices have been primarily in the area of mortgage lending.

As we all know, culpability for these practices exists in every link of the lending chain, from mortgage brokers to lenders to the investment banks. Certainly there are many borrowers who acted irresponsibly. They should not be excused for the consequences of their actions but neither should those whose culpability was significant and catastrophic in terms of their impact on mortgage lending and on the credit markets.

Almost 2 years ago, the Senate Banking Committee held the first congressional hearing of the new Congress on predatory lending. At that hearing, I and others of that committee, Democrats and Republicans, warned of a coming wave of foreclosures that could devastate millions of homeowners and have a devastating impact on our economy. Some, unfortunately, scoffed at those predictions. Well, no one is scoffing anymore. Financial market turmoil is affecting families and businesses all across this country, and the contagion has spread beyond the shores of our own Nation.

A paper in my State, the Connecticut Post of Bridgeport, CT, reported that, at Sacred Heart University, Julie Savino, dean of student financial assistance, is fielding calls from parents who never before sought financial aid. Laid off or without medical insurance or unable to secure a home equity line of credit, parents are suddenly on the hunt for alternative means to pay for their children's education. Some students have had to walk away from their educations all together, she points out.

Reuters News Service reported that Kansas City cabinetmaker Anthony Gallo had no debt 18 months ago. None. Now he is being forced to borrow just to make payroll.

Let me quote Mr. Gallo:

My line of credit has been cut to nothing. We are all hurting and wondering what is going to happen. They have got to do something to save the banks. They can't kill our economy.

The fact is, the banking and financial system is an essential part of our Nation's economy. A halt in the flow of money threatens not only Wall Street firms—which would not bring us here today—but endangers the way of life for millions of Americans far beyond Lower Manhattan. Right now, banks are afraid and in some cases unable to lend money, money companies need to make payroll, money families need to pay medical bills, money students need to pay for college, money small businesses need to stock their shelves with inventory, money a gas station needs to supply its pumps with gas, and money investors provide to entrepreneurs to start new businesses and create new jobs. We know that money isn't moving. That is what the credit crunch means.

Very few Americans have ever heard of something called the LIBOR, which stands for the London interbank offered rate. This is a rate banks charge when they make loans to other banks. It is also the rate that is used to calculate the cost of home loans, student loans, auto loans, and small businesses. Yesterday, LIBOR jumped over 400 percent in just 1 day.

In many ways, this is the canary in the coal mine, if you will. It is a sign of the strains that are threatening the essential flow of credit to the people of our country and, indeed, the industrial world.

Another canary in the coal mine is the rate on Treasury bills. Several days ago, fearful investors rushed into safe Treasury securities, sending yields on Treasurys into negative territory for the first time in at least half a century. When people see that the money they have placed in banks and money market funds is earning negative interest, they may feel compelled to pull their money out of such financial institutions. This could result in even further erosion of the supply of money in our economy.

Our economy is on a precipice—and that is not an exaggeration, that is not hyperbole—and we must do what we can to move it back from that brink. The legislation before us and the amendment I have offered, this comprehensive amendment before the Senate today, represents an effort to do just that.

Just 10 days ago, the administration—if I may just remind my colleagues, this is the bill, I hold it in my hands, three pages long—the administration sent to us a bill that called for $700 billion to go out without any questions asked, without any oversight, any accountability, or any taxpayer protection. Three pages. I might point out, as I said to some, a no-documentation loan for $100,000 to a subprime borrower a few years ago was four pages long. Here is a request for $700 billion that is three pages long. And my colleagues on both sides here said no to that, we are not going to do that.

As a result, over these last 2 weeks, we have put together a piece of legislation that gives us much more heightened protection about how this program would work. There are a lot of people who deserve tremendous credit, but I thank my colleagues for rejecting this offer of three pages for $700 billion in return for drafting a comprehensive bill that I believe will provide the kind of security people are looking for with a plan of this magnitude. I refused, along with my colleagues, to provide a blank check on this not just for this administration—I would do it with any administration, and my colleagues did as well. This crisis demanded we bring together Members of the House of Representatives, the Senate, Republicans and Democrats, and hammer out a better solution for the American people.

Our leader, Senator HARRY REID, the majority leader, deserves incredible credit for his determination to stick with it and not walk away and demand each and every day, when things began to fall apart, that we stay and work at it. He was joined by the minority leader, Senator MCCONNELL, equally committed, I would point out, to the same efforts, as well as a number of others who played significant roles.

JUDD GREGG of New Hampshire I have been talking about and spending a lot of time with over these last 2 weeks, working out this particular bill that we brought together, and I thank him for his efforts.

JACK REED of Rhode Island was the principal author of the warrants in this bill, to make sure the American taxpayer comes first. If these instruments turn out to be more profitable and they actually are sold and we make our money back, the people who will get the benefit of that first are the American taxpayers, and JACK REED demanded that.

PAT LEAHY looked at the provision of this original proposal which suggested that no court of law, no agency could ever question how this $700 billion was going to be used, and the chairman of the Judiciary Committee said that passage will not last and struck it and offered new language that provides judicial protection in this bill.

I have mentioned BOB CORKER already, Senator CORKER of Tennessee, who was valuable over the last 2 weeks, and MEL MARTINEZ and CHUCK HAGEL.

My colleague from New York, CHUCK SCHUMER, who is knowledgeable about this subject matter and who represents the State of New York—I can't begin to describe how valuable CHUCK SCHUMER has been in this process. From the very beginning, there hasn't been a meeting that has occurred or a discussion held where he hasn't played an invaluable role in seeing to it that we stayed with it.

DICK DURBIN, the majority whip, and Bob Bennett of Utah—again, the ranking Republican on the Banking Committee historically has played a very important role on so many issues during his tenure here and again was tremendously helpful.

MAX BAUCUS, whom I have mentioned—chairman of the Finance Committee—played a critical role as we fashioned this together.

My dear friend and colleague, KENT CONRAD, the chairman of the Budget Committee, was incredible in his determination that this package be fiscally sound, that we have provisions that would guarantee our debt would be retired as part of the effort here when resources are sold and the profits are gained. So I thank my friend. He is here, in fact, on the floor. My colleague has been a tremendous help in all of this, Madam President.

I want to also mention, from the other body, BARNEY FRANK of Massachusetts, my counterpart on the House Financial Services Committee, was, again, tireless over the last couple of weeks in this effort, and Congressman ROY BLUNT, Speaker PELOSI, Representative BOEHNER as well, and RAHM EMANUEL.

There are so many people, and I want to be careful, but clearly this was a huge effort. I wish in many ways that the American people could have been a witness to these gatherings that went on day after day. I think they would have been proud of their Congress at a time when Congress's reputation is not great. I think they would have been proud to see the effort that was being made, not where people were running to a political corner wearing a Republican or Democratic hat but coming together as Senators and Congressmen, along with those from the Treasury Department, to make a difference. All of these Members of Congress undertook the enormous and in many respects thankless but nevertheless vital task of crafting this proposal which we offer to our colleagues this afternoon—the Emergency Economic Stabilization Act of 2008.

This legislation would address, we hope, our Nation's economic emergency in three key ways: economic stabilization, taxpayer protection, and home ownership preservation.

This bill gives the Treasury Secretary the authority to respond quickly, forcibly, but responsibly to the current crisis. It authorizes him to buy a total of $700 billion in troubled assets, broken down into three separate tranches, with the final tranche subject to congressional review and approval.

Madam President, $700 billion is a staggering amount of money. We all understand and share the anger of the American people that they are being asked to commit that sum. But in a $14 trillion economy, this is the kind of financial firepower that must be brought to bear to contain the financial crisis.

Secondly, in consideration of the extraordinary burden this bill potentially places on the taxpayer, we maximize, to the extent possible, protections of the taxpayer.

The bill establishes an oversight board to review and shape the policies of the Treasury Department in carrying out this program. Unlike the original Treasury proposal, this bill subjects the actions of the Treasury Secretary to strong judicial review that would prohibit actions that are arbitrary, capricious, or otherwise unlawful. It places firm limits on executive compensation to help ensure that corporate executives whose companies receive taxpayer benefits do not walk away with golden parachutes and are not otherwise rewarded for wrongdoing.

We require taxpayers to receive warrants so that they can benefit when a company benefits from taxpayer assistance. In addition, we require that any profits generated from the sale of these assets purchased with public funds go to reducing our national debt.

We provide for extensive reports so that Members of Congress and the public at large will know how every dime of this program is being used. Within 48 hours of any transaction, the Treasury Secretary will have to report the amount, the terms, and the participants associated with that transaction. The General Accounting Office will have immediate and ongoing audit authority and report to Congress every 60 days. A special inspector general will be established to monitor and police the program's activities and its participants.

The third priority advanced by this legislation is home ownership. This is not an ancillary objective; it is inherent, in my view, to our efforts to resolve this economic crisis.

Chairman Bernanke himself has spoken forcefully on this point. Our economy will recover only when we put an end to the spiral of foreclosures that are pulling down our entire financial system. To that end, the legislation requires that all Federal agencies that own or control mortgages or mortgage-backed securities preserve home ownership. In addition, the legislation expands eligibility for the HOPE for Homeowners program, which allows lenders and borrowers to access Federal mortgage insurance in order to put homeowners on a path to security, not financial ruin.

This is not an easy vote. There will be no balloons or bunting or parades for Members at the end of this process, only the knowledge that at one of our Nation's moments of maximum economic peril we acted, not for the benefit of a particular few but for all Americans so that they and those who come after them may enjoy the full blessings of life in this great Nation of ours.

We are a nation of optimism and confidence. Americans deserve to have that restored. Our job tonight will give them a chance to do that. I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for up to 10 minutes.

Mr. COBURN. Madam President, it is tremendously ironic that we are here today. It is ironic in the sense that as we ignore what the Constitution tells us, we embrace defeat, difficulty, and peril.

Madam President, I ask unanimous consent that the full text of article I, section 8 of the Constitution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION. 8. [1] The Congress shall have Power To lay and collect taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

[2] To borrow money on the credit of the United States;

[3] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

[4] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

[5] To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

[6] To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

[7] To establish Post Offices and post Roads;

[8] To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

[9] To constitute Tribunals inferior to the supreme Court;

[10] To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

[11] To declare War, grant Letters of Marque and Reprisal and make Rules concerning Captures on Land and Water;

[12] To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

[13] To provide and maintain a Navy;

[14] To make Rules for the Government and Regulation on the land and naval Forces;

[15] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

[16] To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

[17] To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

[18] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Mr. COBURN. I also ask unanimous consent that the 10th amendment to the Constitution be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The powers not delegated to the United States by the Constitution, nor prohibited

by it to the States, are reserved to the States respectively, or to the people.

Mr. COBURN. For those of you who are not familiar with those two portions of our Constitution, they are very clear. Article I, section 8 is the enumerated powers that are given to Congress. They are very specific. They are very direct. It tells us what we are to be dealing with and what we are not to be dealing with. It tells us the extent to which the Federal Government is to intervene in the lives of Americans.

The 10th amendment, on the other hand, says that whatever is not included, specifically listed right here in the enumerated powers, is totally and absolutely reserved for the rights of the States.

As a practicing physician, I compare where we are today to a physician who commits malpractice. We have a patient with cancer. They have a secondary pneumonia because of the cancer. We are going to treat the pneumonia. We are going to give the antibiotics, we are going to give something to lower the temperature, we are going to give something to suppress the cough, we are going to give something to thin the mucous, but we are not going to fix the cancer. We are going to ignore the cancer.

Let me tell you what the cancer is. The cancer is Congresses that, for years upon years, have totally ignored the Constitution of the United States and taken us to areas where we have no business being. There is no way you can justify, in the U.S. Constitution, that the country ought to be the source of mortgages for homeowners in this country. Yet Fannie Mae and Freddie Mac control 70 percent of the mortgages in this country.

I plan on voting for this bill. I support that we have to do something now. But how we got here is very important if we are going to fix things in the future. The fact is that, at the same time we are debating this very important issue, we have on the floor another violation of the enumerated powers, which is the Amtrak and Metro earmark fiasco. It is going to be very interesting to see the Members of this body as they vote to bail out the financial institutions in this country while at the same time they continue to commit the same error that got us there in the first place. There is no question Amtrak is going to get reauthorized. The American people are going to spend $2.3 billion subsidizing the riders on Amtrak in this country.

In 2006 we subsidized food on Amtrak to $100 billion—I think it is down to $70 million now—despite an explicit provision within the Amtrak bill that says they will never sell anything for less than its cost and they were to lose no money on food.

Where is the answer? The answer is there has been no oversight to make sure Amtrak doesn't lose money on food. We have ignored it. We have ignored the enumerated powers of the Constitution. We are now committing the same Federal error in a much smaller way on Amtrak as we did on housing. If anybody in America is mad about this situation, there is only one place they need to direct their anger and it is right in the Congress of the United States.

It is not specific Members, it is bad habits. We are not going to cut out the cancer. We are not going to give the radiation therapy. What we are going to do is we are going to continue to treat the symptoms rather than directly go after the cause that has created the greatest financial risk and peril this country has ever seen. We are not going after the cause.

The cause is get back within the bounds of the Constitution that very specifically says where we have business working and where we do not. Because we are out of those bounds, we have now put at risk every job in this country, the savings and retirement of people who worked for years, because we decided we would ignore the wisdom of our Founders and create systems that are outside the enumerated powers that were given to us because we know better.

We do not know better. It is obvious. There is no administration to blame. It is not the Clinton administration or the Bush administration's fault we are in this mess. Because if you say that, what you have to say is you did all the oversight, you had all the hearings, you knew what was going on and you didn't do anything about it. So either we didn't know or we did know and did nothing about it.

There is only one place to come to hold accountability and it is in this body. You are going to get to see tonight people continue to vote outside the bounds of the Constitution, as we reauthorize $2.3 billion of subsidies for Amtrak, and we do not hold Amtrak accountable. We are going to give $1.5 billion and the mother of all earmarks to Virginia and Maryland for a Metro system that the Federal employees use more than anybody, and we are subsidizing an additional $100 million through individual agencies to pay them to ride it. And we wonder why we have these problems.

It is very simple. We are committing malpractice. We are not living up to the oath we undertook when we became Members of this body. That oath says you will defend and uphold the Constitution. It doesn't say you will rewrite it because it pleases you politically. We are here today because of fatal errors on the part of Members of this body to do something that is totally outside the bounds of the wisdom and foresight our Founders gave us.

Those are tough words. But we are in tough times. If we do not get about withdrawing and getting back within the realms of the power granted to us, this is just the first in a very large roll of problems this country is going to face.

Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. COBURN. Let me describe for a moment the problems that are coming if we get past this one. Here are the problems that are coming. We are on an unsustainable course. The unfunded liabilities for Medicare alone are $100 trillion. A child born today in this country faces $400,000 for taxes for things they will never get a benefit from—$400,000. Who in this country starting out even could absorb that debt, pay the interest on it, and ever hope to own a home or have a college education? Yet this body continues to spend more, authorize more, and create bigger and more intrusive Government, limiting the power of the great American experiment to, in fact, supply an increased standard of living.

We are in tough times, but they are going to get tougher until the American people hold this body accountable to live within the rules set out in a very wise, a very providential way that served this country well. We ignore this book, this Constitution, at our peril. We are reaping exactly what we have sown.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I want to recognize the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. CONRAD. Could I ask for an additional 5?

Madam President, first I thank Chairman DODD for his extraordinary leadership. Let me say to every Member, we are fortunate to have Chris Dodd at this critical position at this important time. He has conducted himself as a superb professional. Thank you, Chairman DODD, for the leadership you have provided for the country, and to the rest of the negotiating team from the Senate, Senator GREGG, who did such a strong job of leadership in those negotiations, Senator SCHUMER, Senator BAUCUS, Senator JACK REED—all of whom made major contributions; certainly our own leader HARRY REID, who insisted that we stay at it until the job was done.

Colleagues and countrymen, this is a defining moment. History is being written. Our economy is threatened. We all understand that at the heart of this matter is a housing crisis compounded by a fiscal crisis compounded by an energy crisis, all of them closing in on the country at this moment. The home foreclosure rate is the highest level ever. We have seen the stock market decline by more than 22 percent since its peak last October, with the most recent plunge, the day before yesterday, the Dow falling 777 points in 1 day. We all know that.

Even more important is what is happening in the credit markets. ''Credit Enters a Lock Down, and Wheels of Commerce Freeze Up.''

But in this story from the New York Times of September 26 are these two paragraphs:

With the economy already suffering the strains of plunging housing prices, growing joblessness, and the newfound austerity of debt-saturated consumers, many experts fear the fraying of the financial system could pin the nation in distress for years.

Without a mechanism to shed the bad loans on their books, financial institutions may continue to hoard their dollars and starve the economy of capital. Americans would be deprived of financing to buy houses, send children to college and start businesses. That would slow economic activity further, souring more loans, and making banks tighter still. In short, a downward spiral.

We can see the beginnings of precisely that dynamic in the credit markets. This, the spread between the 3-month rates on LIBOR and Treasury bills, is a measure of the risks banks see in lending to each other. It has shot up to record levels in these last 72 hours. That means credit is being choked up. That means credit is being locked up. That means the economy is being locked down. What is the result of all this? We have already seen major financial institution after institution fail: Fannie Mae, Freddie Mac, Bear Stearns, Lehman Brothers, Washington Mutual—the largest savings and loan association in America—AIG—the largest insurance company in the world—Wachovia, Merrill Lynch and, overseas, FORTIS and four other major financial institutions, just over the weekend.

Colleagues, we can connect the dots. Something dramatic and serious is occurring.

The Chairman of our own Federal Reserve said this to us: If we fail to act, unemployment could rise to 8 or 9 percent in the next 6 months. What would that mean? That would mean between 3 and 4½ million more Americans would lose their jobs in the next 6 months. Colleagues, let's focus on this point. The Chairman of the Federal Reserve is telling us, absent our action, 3 to 4½ million more of our countrymen could lose their jobs in the next 6 months.

The truth is, none of us knows if this package will be enough—but it is a beginning. It is a solid beginning. It is a bipartisan beginning. We may need to do more, but much has already been done.

Let's look at the package that was sent us. The administration sent us a package with no equity stake for taxpayers. That meant no upside for taxpayers. Seven hundred billion dollars was provided in a lump sum. All the power in the hands of one person, the Secretary of the Treasury, and no limits on executive compensation or golden parachutes.

In the negotiations from Thursday until now, we have dramatically changed this package. Taxpayers will now receive an equity stake, so they have a potential profit when markets recover. Funding is now to be released in three installments, not just one lump sum, allowing for additional congressional oversight.

An oversight board will now be created to ensure that the Treasury actions protect taxpayers and are in the Nation's economic interests. And now, no golden parachutes will be allowed, and executive compensation will be capped.

In addition, FDIC insurance is now raised from $100,000 per account to $250,000 an account.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. CONRAD. Madam President, this is a defining moment. All of us understand the anger of our constituents and our own anger. I must say, as I have been part of this effort over this last week, my own anger level has risen as I have heard descriptions of the extraordinary risky, reckless behavior of people all throughout the chain who have helped create this crisis.

We will hold them to account. Already the FBI has launched four investigations. People will be criminally charged, I believe, before this is over. Today, we have a decision to make. Do we support a package to soften the blow, to try to prevent this downward spiral from accelerating and intensifying?

That is our challenge. That is our charge. This is our best chance. This is our best chance. I ask my colleagues to support it. Again, we understand this is a tough vote. But our country needs us now. Our country is counting on us now. Let's not miss the chance to do something important for our Nation to prevent this crisis from intensifying.

I especially wish to thank the chairman of the Banking Committee who has given his all to this effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Madam President, I rise to speak in support of the bipartisan legislation we will vote on tonight, that will help to stabilize our financial markets, to prevent catastrophic consequences for our entire economy.

Nobody is happy with the crisis we face, with the urgent pressure to take decisive action or with the very limited policy options available to us at this point. I share the anger of many of my constituents over this crisis, and I subscribe to the principles many of them invoke. As the Senator has pointed out, the initial proposal the Treasury Secretary presented to us was deeply flawed. That is why I pushed for strong taxpayer protections to be included in the plan. That is why I insisted that any plan include limitations on excessive compensation and golden parachutes for executives of the Wall Street firms that helped create the current crisis and that now seek Federal assistance.

Those controls and safeguards are part of the bipartisan package now before the Senate. That is why I advocated for strong oversight and accountability provisions rather than a blank check for the Secretary of the Treasury.

Those oversight and accountability protections, too, have been included in this package. I supported the proposal for a special inspector general to review the way this program will operate. But the fact is, unfortunately, we have to face the reality that the collapse of the housing bubble and the mortgages, the subprime mortgages and the exotic securities that floated along with them, do not just affect the executive suites on Wall Street. In fact, the ramifications cascade throughout our economy, affecting the credit lines needed by small businesses to meet their payroll, the young couple seeking to buy their first home, the automobile dealer trying to finance his inventory, the 55-year-old worker whose 401(k) plan lost a great deal of its value, and even our States and counties.

The State of Maine found itself unable to finance a routine $50 million transportation bond last week. How did we get here? Well, the culprits are many. They include the greedy Wall Street traders whose culture rewards risk taking and focuses on short-term problems.

They include unscrupulous mortgage brokers who pushed people into mortgages that were totally unsuitable for them. They include the naive or the deceptive borrower who simply did not understand or misrepresented their ability to pay once their mortgage rate reset.

They include, at the heart of this scandal, the Government-backed mortgage finance companies, Fannie Mae and Freddie Mac, that took on huge amounts of risk with paltry levels of capital.

Sixteen years ago, some Members of Congress warned of the potential systemic risks Fannie Mae and Freddie Mac presented. Officials in both the Clinton and Bush administrations issued warnings and proposed reforms. In 2005, legislation that would have made a difference was actually considered by the Senate Banking Committee and proposed by Republican members of that committee. The full House considered a bill that would have helped, although, unfortunately, it rejected some strengthening amendments.

Unfortunately, these reforms did not get enacted until this July, when the sheer pressure of the mortgage crisis finally forced Congress to act. This is a huge crisis. There are some $1 trillion worth of subprime mortgages in the country. Freddie Mac and Fannie Mae hold or guarantee more than 40 percent of America's mortgages and lately have been buying more than 80 percent of new mortgages because the private sector for the mortgage finance market has virtually disappeared.

As a former Maine financial securities and banking and insurance regulator, I understand this is a very complex problem. Its roots lie in the past

decade of the real estate bubble, the relaxed lending standards, the existence of this huge and exploding subprime mortgage market, the creation of complicated securities tied to mortgages that were not held by the originators of those mortgages, and then the sale of those securities when their risks were poorly disclosed, not well understood, and lightly regulated, if at all.

The subprime mortgages were bundled together into mortgage-backed securities that were, in turn, linked to complicated financial instruments that in some cases were not regulated at all. An example are the swaps we have heard discussed. The swaps are not securities so that, as such, they were not regulated by the SEC. While they perform a function very similar to an insurance policy, they are not insurance in the traditional sense, so they escaped regulation by State insurance regulators.

The lack of regulation set the stage for deep losses for countless investors and other entities that had entered into the swap contracts. But frustrated and angry though we are, the focus of our attention must be on averting the worsening storm of financial distress, and we must have the much-improved bipartisan package to halt its spread and to mitigate its damage.

We have all seen the big headline events, the bank failures, the Government takeover of Freddie Mac and Fannie Mae, the failures of Bear Stearns and Lehman Brothers, the forced sales of Merrill-Lynch and Wachovia. These are the big headline events, and they may seem detached from people's daily lives, but they are not. Millions of Americans are being reminded that the cost and supply of new mortgages, the value of our homes, the availability of student loans, the interest rates on our credit cards, the short-term loans for business payrolls and supplies, the value of our retirement savings, are all tightly connected to the global web of credit and finance.

Economists of every ideological leaning agree we face a catastrophic crisis if we do not act. Monday's sudden drop in the stock market, the disappearance of interbank lending, the flight from money market funds, all stand as indicators of trouble and signs of panic.

As the economists noted a few days ago:

> The potential costs of producing nothing, or too little too slowly, include a financial crisis and a deep recession spilling across the world.

Time is short, and I am not referring to the time until adjournment. We must act because the crisis will grow worse with delay and because the Treasury does not have unlimited authority or resources to continue case-by-case rescues.

The current compromise agreement includes principles for which I have pushed, including strong protections for taxpayers so it is very unlikely that taxpayers will be on the hook for $700 billion. In fact, there is a chance, with proper management of this program, that in some cases the taxpayers could actually make a profit. The bill now includes strong protections, curbs on excessive executive compensation, including golden parachutes, and tough oversight and accountability.

We must act now. None of us wants to see the further devastating consequences for our economy.

It also benefits from the addition of two new features. The first is temporarily raising the deposit-insurance protection for bank and credit-union customers from the current $100,000 per account per institution to $250,000. This is important to reassure consumers about the safety of the banking system in a time of turmoil, and to provide added protection for people who feel obliged to move assets to safe havens.

The second added feature is making the tax-extenders package that was overwhelmingly approved by the Senate in September a part of this stabilization package. Providing additional tax relief for individuals and small businesses in a time of stress and rising prices is in itself a step toward economic stability.

I am pleased to note that the tax provisions include energy-related measures such as new language on application of the wood-stove credit. We are not only providing general tax relief, but also targeted measures that will encourage more use of renewable resources and reduce our dependence on imported oil, whose increased cost aggravates the other injuries from which our economy suffers.

This bipartisan financial-stabilization package, endorsed by our congressional leadership and by both Presidential candidates, does not eliminate the need to keep reasonable questions in mind. While exchanging Treasury funds for currently depressed or unmarketable mortgage-related assets would obviously be a powerful tool for freeing the channels of credit and investment, many questions remain about how the Government would ensure that mortgages and mortgage-backed securities are carefully appraised so that taxpayers do not overpay or, worse yet, stand liable for debts used to purchase currently unmarketable assets; that the purchased assets are carefully managed; and that taxpayers are adequately protected through such devices as warrants or contingent equity interests in return for their financial exposure.

The bill before us now includes a provision that addresses those concerns in a comprehensive fashion. It directs the President, 5 years after the Troubled Asset Relief Program takes effect, to evaluate the ultimate cost, if any, to taxpayers, and to propose a program for recovering any shortfall from the financial industry. Considering that taxpayers may actually make money on the resale of troubled assets purchased by the Treasury, this added level of protection seems to insulate them from risk of losses.

The current upheaval in the financial markets certainly has created great strain on the lives of families throughout the country as well as our financial markets. And it threatens a terrible recession here and around the world. The bill before us is not perfect, but it reflects a consensus on the shape of an effective intervention, and it provides robust provisions for accountability and taxpayer protection.

I urge my colleagues to join me in support of this carefully crafted and urgently needed measure, and in my call for a thorough review of our financial regulatory system so that the current crisis does not occur again.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I ask unanimous consent that the Senator from Rhode Island be recognized for 6 minutes, the Senator from Pennsylvania for 5 minutes, and then my colleague and friend from New York for 6 minutes.

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

The Senator from Rhode Island.

Mr. REED. Madam President, first let me commend Senator DODD for his extraordinary leadership and also my colleagues Senators CONRAD, BAUCUS, GREGG, SCHUMER, CORKER, BENNETT, and our colleagues in the House, particularly BARNEY FRANK and SPENCER BACHUS. Last Thursday, under the direction of Chairman DODD, we worked on a bipartisan and bicameral basis and sketched out the outline of the bill we have today. We reacted to the blank check presented to us by the Treasury Secretary. We provided detail. We provided oversight. We provided protections for taxpayers. Now, this much-improved proposal has now come to this floor for a vote. I hope we can support it.

We are in the midst of a terrible economic crisis. The American people are justifiably outraged that they have been put in a position where they must essentially contribute $700 billion to stabilize our financial system and, indeed, the global financial system. They are also outraged that this is the result of lax oversight over many years. It is a result of indifference to the plight of homeowners and workers, because they have seen very little in terms of real, tangible support from this administration with respect to their problems and concerns, such as making a decent living, educating their children, and providing for health care for their families.

But we have to act, and we have to act decisively. Because what is threatened here is the welfare not just of a few but of all Americans. What is at stake is their financial welfare and their financial future.

It would be nice to say this proposal is a cure but, frankly, it is a tourniquet for a hemorrhaging economy. If we don't apply this tourniquet today, the chances of reviving the economy and restoring it are diminished dramatically. I believe we must act along the

lines outlined by Senator DODD and our colleagues in the Senate and the House. If this problem were only restricted to Wall Street, this would be a different bill. But every American feels the effect of this financial crisis, from the value of their pensions, their investments, and their overall wealth. It has spread beyond Wall Street and is affecting Main Street and the credit markets that are so central to everything we do. Auto sales are plummeting this month because credit is difficult to obtain. That means our car companies are facing an additional hurdle in terms of keeping thousands of Americans employed in good jobs. The cost and availability of college loans will be impacted if the credit crisis continues. The cost of small business expansion will increase. There are homeowners who are rushing to closings and discovering that the loan has been pulled because the banks won't lend. Their affairs are in disarray. We have to act and we have to act smartly.

What we have seen over the last several weeks and days is a deterioration in the financial and credit markets, and we have to counter that. The plan presented to us by the Secretary of the Treasury was virtually a blank check: Give me $700 billion and I will take care of things.

We would not accept such a blank check. We insisted, first, that there be an oversight mechanism so the Secretary's actions were not the only actions in terms of sound policy moving forward. Then we insisted, at my suggestion and the suggestion of others, that we provide for an equity interest that the taxpayers would receive in those companies that participate in this program. There would be an equity participation with warrants, so that taxpayers share in the recovery of these companies, not just the shareholders and executives of these companies. That is not only fair, it is sensible. When you assume risk on Wall Street, you get paid to do so. The American taxpayers deserve their share from the risk they are bearing. This is an improvement.

In addition, we addressed an issue that is critical to all hardworking Americans; that is, imposing restraints on excessive compensation of some executives.

However, we have to do much more. In fact, as soon as we conclude this debate, Chairman DODD will organize hearings so that we can get on with another fundamental responsibility—the restructuring of the regulatory framework for banking and finance. Part of that includes reviewing executive compensation and ensuring that shareholders have a say in compensation decisions. That is just one aspect of an elaborate agenda of reform that has to be undertaken. To stop now and simply provide support to the current crisis without a refinement and a rebalancing of our regulatory structure would be a terrible miscalculation on our part. We have to move forward.

In addition to the efforts underway today, we have to renew our focus in providing an approach to regulation that is sensible, sound, and does not interfere with innovation and ingenuity, but does not result in the indifference and lack of oversight that is a large part of this problem.

There are other aspects within this bill we need to address. First, there is language with respect to mark-to-market accounting rules. What we have done is affirmed the SEC's authority to enforce proper accounting practices. I hope, in response to this crisis, that we do not abandon the principle of mark-to-market accounting rules. Essentially what some people are urging is that we cook the books because we have a huge problem. In other words, let's make it go away with accounting techniques. That is how we got into this situation. To use that approach is adding, in my view, insult to injury. I hope we can maintain strong accounting standards and work our way through this problem without sacrificing these standards.

There is something else we have to recognize. We have to do more to help Americans who are facing foreclosure. It is only through helping the homeowners that we will we get to the bottom of the crisis.

I thank the chairman for his kindness and leadership on this bill.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Madam President, less than 2 weeks ago, the Treasury Secretary came to the American people with some bad news. He said he needed Congress to help. And soon, after significant debate, Congress will deliver.

The problem we face as a Nation is urgent and unprecedented. As a result of lax lending practices earlier in the decade, millions of Americans now find themselves either delinquent or unable to cover their mortgages.

If this were the only problem, we could address it individually by helping those who were victims of fraud and letting those who made bad judgments or who lied on their loan applications pay for their mistakes.

But what began as a problem in the subprime mortgage market has now spread throughout the entire economy. And here is where the crisis hits home.

After banks made these risky mortgages, they sold them. The institutions they sold them to then shopped them around the world. And now these troubled assets are frozen on the balance sheets of the businesses that you and I rely on to buy everything from dishwashers to new homes.

At the heart of the rescue plan is a need to lift these assets off the books and to restore confidence in the institutions that hold them. Then, once the housing market stabilizes, we will sell them back.

Many economists, including those at the nonpartisan Congressional Budget Office, predict that once the assets are sold off over the next few years, the net loss to taxpayers could be negligible.

But for now, the practical problem we face is this: credit, the lifeblood of our economy, is frozen. And unless we act, it is expected to remain that way.

This means that the lives of ordinary American families could be severely disrupted, commerce could dry up, and millions of jobs could be lost.

The original White House proposal for addressing this crisis was unacceptable to Members on both sides in its initial form. But both parties have since made sure that the taxpayers are protected once a final deal is reached.

For my part, I came to the Senate floor and put down a firm marker: if Congress was going to help companies that got us into this mess, then executives at these companies would play by our rules. I also said that the Government wouldn't be allowed to use this plan as an excuse to fund new programs: No golden parachutes, limits on executive pay, and no favors for special interests.

Thanks to bipartisan insistence on all of these points, the plan that the House voted on earlier this week included every single one of our initial demands. And so does the plan that the Senate will vote on tonight.

This process hasn't been easy.

For the past week, Members of Congress and their staffs have worked around the clock to craft a rescue plan that is designed to protect American families from the shockwaves of the credit crisis.

When that plan failed in the House, we picked up the pieces, and we put together an even better plan that we think will make it through the House, and onto the President's desk this week.

It is important that we act now, because the crisis is spreading.

Small business owners in Kentucky are writing urgent letters to my office saying that their interest rates are already skyrocketing and putting their businesses—and employees' jobs—at risk.

A woman in central Kentucky wrote that she is afraid she will have to sell off part of her family's farm.

A retired school counselor wrote to say she can't afford to see her small retirement savings vanish.

A small business owner in La Grange told me he might not be able to make payroll because, in just the past week, the interest rate on the loan he took out to finance his building more than tripled.

The current crisis may have its roots in the actions of a few. But its effects could potentially reach into every single home in Kentucky, and every other home in America.

This economic rescue plan is a necessary effort to protect the vast majority of Americans—whose day-to-day lives depend on ready access to credit—from the misdeeds of Wall Street. And at this point, doing nothing to prevent an economic collapse is no longer an option.

Here is what the second largest newspaper in America, the Wall Street

Journal, said about the rescue plan earlier this week: ''It deserves to pass because in reality it is an attempt to shield middle America from further harm caused by the mistakes of Wall Street and Washington.'' ''The current seizure in the credit markets is real,'' the Journal added, ''and it will do far more harm if not repaired soon.''

For lawmakers, failing to pass this economic rescue plan would be grossly irresponsible. The voters sent us to Washington to respond to crises, not to ignore them. To that end, we have acted swiftly. And lawmakers from both political parties have worked hard to protect taxpayers at the beginning and at the end of this plan.

Thanks to our insistence, this rescue plan will have strong Federal oversight. Not only will there be a strong and diverse executive oversight board watching every single transaction, but we will also have the ability to investigate, pursue, and punish any executive who engages in fraud or who attempts to use this plan for personal enrichment.

If the Government is forced to take over the biggest companies, the first thing we will do is wipe out existing compensation packages for failed executives. Then, we fire them.

For most other institutions we assist, failed executives will no longer get million dollar payouts. And those who previously negotiated severance packages will pay one fifth of them in taxes—on top of the standard 30 to 40 percent tax currently in place. This means that executives at these firms will have to hand over more than half of their existing pay packages to the taxpayer.

Moreover, no executive who hasn't already worked out a compensation package will be allowed to get one. At these companies, the days of golden parachutes are over.

As another way of protecting taxpayers, Republicans insisted early on that every dollar the government gets back as a result of this program goes directly to reduce the Federal debt. This plan guarantees it. Every dime we get back will be used to pay our debts.

Since Monday's House vote, we have made some significant improvements to the bill. In order to protect bank customers, Congress will allow the Federal Deposit Insurance Corp. to insure deposits up to $250,000 for 1 year, up from the current $100,000.

We also added significant tax relief for American families and businesses, including a temporary patch on the AMT middle class tax that will protect millions of Americans—including 135,000 Kentuckians—from an average $2,000 increase in their annual tax bill.

At the moment, this plan represents the best way to bring stability to the credit markets, avoid a credit meltdown, and put America on the road to economic recovery. But Congress's job does not end there. After completing this bipartisan effort, Members of Congress must recommit ourselves in strengthening America's long-term economic security.

We should refocus our attention on a balanced energy plan that enables us to find more American energy resources and use less, and by refusing to spend money we do not have on programs that we do not need, thus laying a strong economic foundation for our children to inherit.

Soon, Senators will cast this historic vote. And when we do, the American taxpayers should know this: This plan was written with their best interests in mind. Not a dime will be spent without strict oversight. Failed executives will be held accountable. No more golden parachutes. In the end, the American people can expect to recoup most, if not all, or even more of the money that is spent.

The legislation is not something any of us really wanted to consider. Under ordinary circumstances, high-flying businessmen who make bad decisions or abuse shareholder trust should be allowed to fail. But the situation we find ourselves in is serious, it is urgent, and failing to act now would have devastating consequences for our Nation's economy. We must contain the damage. The potential consequences of inaction for our Main Street economy are simply too great.

Madam President, I also wish to mention that as of earlier today, there were—I have a list of 106 groups supporting the rescue package. I would mention two that I think are noteworthy: the AARP and the Heritage Foundation. That pretty well sums up the broad ideological diversity, shall I say, of the organizations that support this rescue package. I ask unanimous consent to have that list printed in the RECORD at the end of my remarks.

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

(See Exhibit 1.)

Mr. MCCONNELL. Also, Madam President, I would say to my conservative friends who had reservations about this, the National Review supports this package. I mentioned that the Heritage Foundation supports the package. With mixed levels of enthusiasm, the columnists Charles Krauthammer and George Will would support the package. Larry Kudlow, the conservative commentator on CNBC, supports the package. Of course, the Wall Street Journal supports the package. Even Newt Gingrich, an early critic, said, when pressed a couple days ago, if he were here he would vote for the package.

So, Madam President, with that, I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GROUPS SUPPORTING A BI-PARTISAN FINANCIAL RESCUE PACKAGE

1. AARP
2. Air Conditioning Contractors of America
3. Air Transport Association of America
4. Alliance of Automobile Manufacturers
5. Aluminum Association
6. American Apparel and Footwear Association
7. American Bankers Association
8. American Boiler Manufacturers Association
9. American Business Conference
10. American Chemistry Council
11. American Concrete Pressure Pipe Association
12. American Council of Life Insurers
13. American Electronics Association
14. American Electric Power
15. American Financial Services Association
16. American Forest & Paper Association
17. American Hotel & Lodging Association
18. American Institute of Architects
19. American Land Rights Association
20. American Land Title Association
21. American Meat Institute
22. American Rental Association
23. American Resort Development
24. American Society of Appraisers
25. American Trucker Association
26. Americans for Prosperity
27. Appraisal Institute
28. Associated Builders and Contractors
29. Associated Equipment Distributors
30. Associated General Contractors
31. Association for Manufacturing Technology
32. Association of American Railroads
33. Association of Equipment Manufacturers
34. Association of International Automobile Manufacturers
35. Business Council for Sustainable Energy
36. Building Owners and Managers Association, International
37. Business Roundtable
38. California Chamber of Commerce
39. Consumer Bankers Association
40. Consumer Mortgage Association
41. Consumer Mortgage Coalition
42. CTIA—the Wireless Coalition
43. Duke Energy
44. Edison Electric Institute
45. Equipment Leasing and Finance Association
46. Farm Bureau
47. Financial Services Forum
48. Financial Services Roundtable
49. Food Marketing Institute
50. Ford
51. Heritage Foundation
52. Housing Policy Council
53. Independent Community Bankers of America
54. Independent Electrical Contractors
55. Independent Petroleum Association of America
56. Information Technology Industry Council
57. International Council of Shopping Centers
58. International Dairy Foods Association
59. International Franchise Association
60. International Paper
61. Investment Company Institute
62. Manufacture Housing Institute
63. Microsoft
64. Minority Business Roundtable
65. Mortgage Bankers Association
66. NASDAQ
67. National Apartment Association
68. National Association of Counties
69. National Association of Chain Drug Stores
70. National Association of Electrical Distributors
71. National Association of Federal Credit Unions
72. National Association of Home Builders
73. National Association of Industrial and Office Properties
74. National Association of Manufacturers
75. National Association of Plumbing, Heating and Cooling Contractors

76. National Association of Real Estate Investment Managers
77. National Association of Real Estate Investment Trusts
78. National Association of Realtors
79. National Association of Wholesaler-Distributors
80. National Automobile Dealers Association
81. National Black Church Initiative
82. National Education Association
83. National Electrical Contractors Association
84. National Federation of Independent Business
85. National League of Cities
86. National Lumber and Building Materials Dealers Association
87. National Multi Housing Council
88. National Restaurant Association
89. National Retail Federation
90. National Roofing Contractors Association
91. National Rural Electric Cooperative Association
92. NPES—The Association of Suppliers of Printing, Publishing and Converting Technologies
93. Moran Industries
94. Printing Industries of America
95. Real Estate Roundtable
96. Reinsurance Association of America
97. Retail Industry Leaders Association
98. Savings Coalition
99. Securities Industry & Financial Markets Association
100. Semiconductor Industry Association
101. Software & Information Industry Association
102. Technet
103. US Chamber of Commerce
104. US Telecom
105. Verizon
106. Whirlpool

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Madam President, thank you very much.

I rise today to talk for a few moments about the emergency economic stabilization bill.

First of all, I commend the work of a number of people here, but in particular Chairman DODD, who did not want this assignment, had a tough assignment to work with people in both parties in both Houses to get this done. We have a lot more work to do after this, but I commend him for his work and for his leadership under very difficult circumstances.

There are a lot of ways to describe the challenge we face in America today economically and many ways to describe what we have to get done, what we are going to vote on tonight. I think if you could boil it down to one word or a couple of words, it would be—one word would be ''credit,'' or lack of credit. I think that is the basic problem. The freezing or seizing up of credit markets is not some far-off economic concept. That means small businesses in Pennsylvania and across the country cannot have access to credit to meet payroll and to hire people and to grow the economy. Probably half of our economy is small business, if not more. It means that families, when they go to finance an education, higher education, or when they go to purchase an automobile or something for their home, they cannot get access to credit.

We live on credit, and thank God we have it. But that system we rely upon, that families rely upon, is put at risk now because of what has happened lately. We can spend a lot of time figuring out why this happened, and we should after the debate is over. But right now, we have to act.

One headline does not tell the whole story, but it gave me a sense of what was going on. This is from USA Today on Monday, September 29. The headline reads: ''Tight credit costs small-business owners.'' In one headline, I think it encapsulated the challenge this problem is for our economy.

I think I am seeing it not just in headlines and anecdotes about what is happening to people who own small businesses across the country; we are all seeing it, as well, in the unemployment rate, in the job loss across America, which I would argue, as bad as it is now—and a lot of families have been living in this recession. I don't care what the economists say, when you are paying higher prices for gasoline and food and education and health care and everything in the life of a family goes up, you are in a recession.

I think in the last couple of weeks we have seen a terrible downturn in the job market. In Pennsylvania, for example, between July and August of this year—and this does not even include September, where the numbers will be a lot worse—just in 1 month, we lost 31,000 jobs in Pennsylvania. This is not just in Philadelphia, with a little more than 21,000 jobs lost, or in Pittsburgh, with 7,700 jobs lost; I am talking about smaller communities as well. In Johnstown, PA, a small labor market on this list, they lost 500 jobs in 1 month. In Altoona, PA—again, right next door to Johnstown, a small market—500 jobs lost in 1 month. Again, none of this includes the month of September. So we are seeing it everywhere in our State. If small businesses cannot grow and cannot have access to credit, they are not going to create the jobs we need.

One more statistic, and then I will wrap up. The Pennsylvania foreclosure rate in August 2007 versus August 2008 went up 60 percent. So even in a State that has been relatively—relatively—free of some of the trauma that Nevada and California and Florida and some other States have been hit with, even in Pennsylvania that foreclosure rate is going up at a rate much higher than the national average.

So what is this bill about? We have heard a lot about the description of it. I do not believe it is a bailout. We can debate what that means. I do not believe it is. I think it is a bill to stabilize our economy and our businesses and our families.

But there are a lot of taxpayer protections built into this legislation that were not there when we started: taxpayer warrants, as Senator JACK REED talked about today; reimbursements, so at the end of the road 5 years from now, if taxpayers have not gotten what they deserve, these companies that might benefit will have to reimburse; very tough oversight, several levels of oversight.

We do not have time to go into all of them, but there is a special inspector general to crack down on what is happening when this program is implemented. There are limits on CEO and executive pay. It is the first time in American history that we have limited or put some restrictions on that pay. There are foreclosure prevention strategies, an expansion of the HOPE for Homeowners.

This is good legislation which we are making even stronger.

Finally, what we have to do after this is over, as important as this legislation is, is we have to get to work on regulation. We have to not just implement the right policies to regulate in a way we did not regulate before in America, but also, once those regulations are in place, we need to have people in Washington who are willing to crack heads—figuratively, of course—on those who abuse the public trust, those who abuse the rules and get people into mortgages, for example, they cannot pay for.

Finally, we have to make sure, in the months ahead and the years ahead, we invest in the long-term economy, invest in health care and education, the skills of our workers, to build a strong economy not just for this year and next year but for the next generation.

But in the end, this legislation we are voting on tonight is about credit. We are either going to do something about it and allow people to have access to credit or not. I think we have to act, and we have to act promptly.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I ask unanimous consent, with Senator DEMINT's permission, that he and I be switched in order in the unanimous consent roster.

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

Mr. VITTER. Thank you, Madam President.

Madam President, 12 days ago we were struck by two bolts almost out of the blue: the suggestion that our financial system was on the verge of collapse and a proposal under which unprecedented power, discretion, and taxpayer dollars would be given to the Federal Government essentially in the form of one person—the Treasury Secretary—to intervene in the market.

There have since been many amendments to this plan and much talk about taxpayer protection—all of it well intended, thoughtful window dressing. So make no mistake, if Congress passes this bill, it will be passing, 12 days later, an unprecedented expansion of Government power and discretion along with $700 billion of hard-earned taxpayer funds.

After listening to many people I deeply respect, including thousands of hard-working Louisianians, I will—indeed, I must—vote no. I will not vote

no because I do not think we face very serious economic challenges. We do. Credit is drying up, and that presents a real threat to all Americans. I will not vote no because I do not think the Federal Government needs to act. It does, as soon as responsible action is possible. I will vote no because we do not need to use $700 billion of hard-earned taxpayer money in this way, cross this line, set this precedent.

We need to stabilize the market and increase liquidity, not replace the market with unprecedented Government intervention at taxpayer risk and expense. We need to minimize the pain on average Americans who did nothing wrong, not wipe it away from politicians, lenders, and, yes, some borrowers who did plenty wrong who were plenty reckless.

My fundamental concerns with this plan are only heightened by the fact that to implement it, tens of thousands of judgment calls will have to be made as to what to buy and for how much. Those judgment calls will be made by whom? Teams of new bureaucrats who came from Wall Street and who want to go back there. That ensures bias and even corruption.

My deep general unease is only fueled by the fact that there has been no real discussion of the fundamental, long-term reforms that are needed—breaking up Fannie Mae and Freddie Mac, demanding real money down for all home purchases, and establishing aggressive, progrowth tax and economic policy. What is worse, there has probably been no real discussion of this because neither this Congress nor the one about to be elected will pass any of it.

A week ago, I may have voted in anger. Although that is still there, I act now with a profound sense of sadness and disappointment because this unprecedented expansion of Government intervention at taxpayer expense is the product of an appalling lack of political leadership—first, crying fire in a crowded movie theater, then demanding that the only escape is to take dangerous action like tearing down the walls though there are plenty of exit doors in sight.

I truly pray that much of what I have said is proven wrong. I will try very hard to do just that myself, particularly in terms of the next step, by working tirelessly to pass the fundamental reforms we need so that a repeat of this mess—however much a repeat is actually encouraged by this bailout—never happens again. However we vote on this first step, I hope we can come together on the next step in terms of meeting that challenge: passing the fundamental reforms we need. In that spirit, I ask the leaders of this Congress to call this Congress back this year immediately following the election to do just that.

Now is the time to enact real solutions that grow our economy, develop small businesses, and increase opportunities for all Americans. Now is the time to reform the misguided Government policies that caused this mess in the first place. And now is the time to stop knee-jerk political reactions and focus on real solutions to secure our Nation's future, not just for next week but for our next generation.

Madam President, I yield back the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, for how long would the Senator from Illinois like to be recognized?

Mr. OBAMA. Madam President, 6, 7 minutes.

Mr. DODD. I am in control of the time. How much time?

Mr. OBAMA. Madam President, 10 minutes.

Mr. DODD. Madam President, I yield the Senator from Illinois 10 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes.

Mr. OBAMA. Thank you very much, Madam President. I thank the distinguished Senator from Connecticut not only for yielding time but also for the extraordinarily hard work he has put in over the last several days and, in fact, over a week. And I want to thank his counterparts on the other side, including Senator GREGG, for their hard work.

The fact that we are even here voting on a plan to rescue our economy from the greed and irresponsibility of Wall Street and some in Washington is an outrage. It is an outrage to every American who works hard, pays their taxes, and is doing their best every day to make a better life for themselves and their families. Understandably, people are frustrated. They are angry that Wall Street's mistakes have put their tax dollars at risk, and they should be. I am frustrated and angry too.

But while there is plenty of blame to go around and many in Washington and Wall Street who deserve it, all of us—all of us—have a responsibility to solve this crisis because it affects the financial well-being of every single American. There will be time to punish those who set this fire, but now is not the time to argue about how it got set, or whether the neighbor smoked in his bed or left the stove on. Now is the time for us to come together and to put out that fire.

When the House of Representatives failed to act on Monday, we saw the single largest decline in the stock market in two decades. Over $1 trillion of wealth was lost by the time the markets closed. It wasn't just the wealth of a few CEOs or Wall Street executives; the 401(k)s and retirement accounts that millions count on for their family's future became smaller. The State pension funds of teachers and government employees lost billions upon billions of dollars. Hard-working Americans who invested their nest egg to watch it grow saw it diminish and, in some cases, disappear.

But while that decline was devastating, the consequences of the credit crisis that caused it will be even worse if we do not act now.

We are in a very dangerous situation where financial institutions across this country are afraid to lend money. If all that meant was the failure of a few banks in New York, that would be one thing. But that is not what it means. What it means is if we don't act, it will be harder for Americans to get a mortgage for their home or the loans they need to buy a car or send their children to college. What it means is businesses will not be able to get the loans they need to open a new factory or make payroll for their workers. If they can't make payroll on Friday, then workers are laid off on Monday. If workers are laid off on Monday, then they can't pay their bills or pay back their loans to somebody else. It will go on and on and on, rippling through the entire economy. Potentially, we could see thousands of businesses close; millions of jobs could be lost, and a long and painful recession could follow.

In other words, this is not just a Wall Street crisis, it is an American crisis, and it is the American economy that needs this rescue plan. I understand completely why people would be skeptical when this President asked for a blank check to solve this problem. I was, too, as was Senator DODD and a whole bunch of us here. That is why, over a week ago, I demanded that this plan include some specific proposals to protect taxpayers—protections that the administration eventually agreed to, and thanks to the hard work of Senator DODD and Republican counterparts such as Senator GREGG, we in the Senate have agreed to, and now, hopefully, the House will agree to as well.

Let me go over those principles. No. 1, I said we needed an independent board to provide oversight and accountability for how and where this money is spent at every step of the way. No. 2, I said we cannot help banks on Wall Street without helping the millions of innocent homeowners who are struggling to stay in their homes. They deserve a plan too. No. 3, I said I would not allow this plan to become a welfare program for Wall Street executives whose greed and irresponsibility got us into this mess.

Finally, I said that if American taxpayers are financing this solution, then they have to be treated like investors. They should get every penny of their tax dollars back once the economy recovers.

This last part is important because it has been the most misunderstood and poorly communicated part of this plan. This is not a plan to just hand over $700 billion of taxpayer money to a few banks. If this is managed correctly—and that is an important ''if''—we will hopefully get most or all of our money back, and possibly even turn a profit, on the Government's investment—every penny of which will go directly back to the American people. If we fall short, we will levy a fee on financial institutions so that they can repay us for the losses they caused.

Now, let's acknowledge, even with all these taxpayer protections, this plan is not perfect. Democrats and Republicans in Congress have legitimate concerns about it. Some of my closest colleagues—people I have the greatest respect for—still have problems with it and may choose to vote against this bill, and I think we can respectfully disagree. I understand their frustrations. I also know many Americans share their concerns. But it is clear, from my perspective, that this is what we need to do right now to prevent a crisis from turning into a catastrophe.

It is conceivable, it is possible, that if we did nothing, everything would turn out OK. There is a possibility that is true. And there is no doubt there may be other plans out there that, had we had 2 or 3 or 6 months to develop, might be even more refined and might serve our purposes better. But we don't have that kind of time and we can't afford to take that risk that the economy of the United States of America—and, as a consequence, the worldwide economy—could be plunged into a very deep hole.

So to Democrats and Republicans who have opposed this plan, I say: Step up to the plate. Let's do what is right for the country at this time because the time to act is now.

I know many Americans are wondering what happens next. Passing this bill can't be the end of our work to strengthen our economy; it must be the beginning. Because one thing I think all of us who may end up supporting this bill understand is that even if we get this in place, we could still have enormous problems—and probably will have big problems—in the economy over the next several months and potentially longer. Because the fact is, we have had mismanagement of the fundamentals of the economy for a very long time, and we are not going to dig ourselves out of this hole immediately. So this is not the end; this is the beginning.

As soon as we pass this rescue plan, we need to move aggressively with the same sense of urgency to rescue families on Main Street who are struggling to pay their bills and keep their jobs. They have been in crisis a lot longer than Wall Street has. I have said it before and I say it again: We need to pass an economic stimulus package that will help ordinary Americans cope with rising food and gas prices, that can save 1 million jobs by rebuilding our schools and roads and our infrastructure, and help States and cities avoid budget cuts and tax increases. A plan that would extend expiring unemployment benefits for those Americans who lost their jobs and cannot find new ones. That is the right thing to do at a time when consumer confidence is down and we are in great danger of slipping into a big recession.

We also must do more than this rescue package in order to help homeowners stay in their homes. I will continue to advocate bankruptcy reforms. I know my colleague from Illinois, DICK DURBIN, has been a strong champion of this, as have many others. It is the right thing to do, to change our bankruptcy laws so that people have a better chance of staying in their homes, and so we don't see communities devastated by foreclosures all across the country. We should encourage Treasury to study the option of buying individual mortgages as we did successfully in the 1930s. Finally, while we all hope this rescue package succeeds, we should be prepared to take more vigorous actions in the months ahead to rebuild capital if necessary.

Just as families are planning for their future in tough times, Washington is going to have to do the same. Runaway spending and record deficits are not how families run their budgets; it can't be how Washington handles people's tax dollars. So we are going to have to return to the fiscal responsibility we had in the 1990s. The next White House and the next Congress are going to have to work together to make sure we go through our budget, we get rid of programs that don't work and make the ones we do need work better and cost less.

With less money flowing into the Treasury, some useful programs or policies might need to be delayed. Some might need to be stretched out over a longer period of time. But there are certain investments in our future we cannot delay precisely because our economy is in turmoil.

Mr. President, I have exceeded the time a little bit. I ask unanimous consent for a couple more minutes.

Mr. DODD. I ask unanimous consent that the Senator have as much time as he would like to have.

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

Mr. OBAMA. Mr. President, there are certain investments in our future that we can't delay precisely because the economy is in turmoil. We can't wait to help Americans keep up with rising costs and shrinking paychecks, and we are going to do that by making sure we are giving our workers a middle-class tax cut. We can't wait to relieve the burden of crushing health care costs. We can't wait to create millions of new jobs by rebuilding our roads and our bridges, by investing in broadband lines in rural communities, and by fixing our electricity grid so we can get renewable energy to population centers that need them. We need to develop an energy policy that prevents us from sending $700 billion a year to tyrants and dictators for their oil. We can't wait to educate the next generation of Americans with the skills and knowledge they need to compete with any workers, anywhere in the world. These are the priorities we cannot delay.

Let me close by saying this: I do not think this is going to be easy. It is not going to come without costs. We are all going to need to sacrifice. We are all going to need to pull our weight because, now more than ever, we are all in this together. That is part of what this crisis has taught us, that at the end of the day, there is no real separation between Wall Street and Main Street. There is only the road we are traveling on as Americans. We will rise or fall on that journey as one Nation and as one people.

I know many Americans are feeling anxiety right now about their jobs, about their homes, about their life savings. But I also know this: I know we can steer ourselves out of this crisis. We always have. During the great financial crisis of the last century, in his first fireside chat, FDR told his fellow Americans that:

> There is an element in the readjustment of our financial system more important than currency, more important than gold, and that is the confidence of the people themselves. Confidence and courage are the essentials of success in carrying out our plan. Let us unite in banishing fear. Together, we cannot fail.

We cannot fail. Not now, not tomorrow, not next year. This is a nation that has faced down war and depression, great challenges and great threats, and at each and every moment, we have risen to meet these challenges—not as Democrats, not as Republicans, but as Americans, with resolve and with confidence; with that fundamental belief that here in America, our destiny is not written for us, it is written by us. That is who we are, and that is the country I know we can be right now.

So I wish to thank again the extraordinary leadership of Chairman DODD and the Banking Committee, as well as Chairman BAUCUS and Majority Leader REID. They have worked tirelessly. I also wish to thank the leadership in the House of Representatives.

I urge my colleagues to join me in supporting this important legislation, understanding that this will not solve all our problems. It is a necessary but not sufficient step to make sure this economy, once again, works on behalf of all Americans in their pursuit of the American dream.

Thank you. I yield the floor.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. 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. DEMINT. Mr. President, I have friends and colleagues whom I respect deeply who are on all sides of this bailout issue. One of them just spoke. We all to want do what is right for America, and I believe those who have crafted this plan had pure and noble motives. They want this country to succeed. They want prosperity. I just do not believe that this bill gets the job done. In fact, in the long term, I am

convinced it will do more harm than good.

We are the Nation that has been called the bastion of freedom, and we are the Nation that has sacrificed blood and treasure to share that freedom with the world. We have fought communism, dictators, and tyranny. We have helped establish democracies and free-market economies across the globe. Because of America, millions of people are now electing their leaders, and millions have been taken out of poverty and enjoyed prosperity. Yet as the blood of our young men and women falls on foreign soil in the defense of freedom, our own Government appears to be leading our country into the pit of socialism.

We have seen this Government socialize our education system and make our schools among the worst in the world. We have seen this Government take over most of our health care system, making private insurance less and less affordable. We have seen this Government socialize our energy resources and bring our Nation to its knees by cutting the development of our own oil and natural gas supplies. And now we see this Congress yielding its constitutional obligations to a Federal bureaucracy, giving it the power to control virtually our entire financial system. Americans understand this and they are angry. They are our judge and our jury. They are watching what we are doing, and they will render their verdict based on our actions.

If we were honest with the American people and explained the failures that have led to this financial crisis, we might have the credibility to ask our citizens to allow us to borrow another $700 billion in their name to try to fix this problem. But we are not being honest. This problem was not created by our free enterprise system. It was created by us, the Congress and the Federal Government.

With good intentions, we made a mess of things. We wanted our economy to grow faster, so we allowed the Federal Reserve to create easy and cheap credit. But this allowed people to borrow and lend irresponsibly. We wanted to help the poor, so we forced banks to make loans to people who could not afford to pay them back. We wanted every American to own a home, so we created Fannie Mae and Freddie Mac to encourage and guarantee mortgages for more people who could not afford them. And all of these easy mortgages, many of which required no downpayment, inadvertently increased the prices of homes to unsustainable levels and created a massive oversupply of unsold homes. Now the value of homes has fallen, as has the value of the mortgages attached to them.

We allowed and even encouraged Fannie Mae and Freddie Mac to bundle up these risky subprime mortgages so they could be sold as securities to investors in America and all over the world. We guaranteed these institutions with the full faith and credit of the Government so their securities could be sold at above-market rates, allowing them to borrow huge amounts and fuel an explosion in subprime mortgage lending. We also allowed these mortgage giants to use their taxpayer-supported profits to spend over $200 million lobbying Congress to keep us quiet, even when we saw that our brainchild had become a financial Frankenstein.

All of our good intentions are now blowing up in our face, and we are asking the American people to bail us out. We must also plead guilty to other misguided policies that have made the situation even worse. Our foolish energy policies have created a huge financial burden on every American family and severely damaged our economy. By not opening our own energy supplies, we are now sending nearly $700 billion a year to other countries to buy oil. This has dried up capital at home and made us dependent on foreign countries for our credit.

We have also squandered and wasted hundreds of billions of hard-earned tax dollars on unnecessary and ineffective Federal programs and thousands of wasteful earmarks. Last week, we passed a bill with the highest rate of pork spending in history. While our talk of gloom and doom has heightened the financial panic here and around the world, and while we are asking Americans to bail us out, we are still spending money as if there is no tomorrow. Years of wasteful spending and bad policies have resulted in a huge national debt of nearly $10 trillion. Much of this debt is held by China and Saudi Arabia and other foreign countries that some now say are dictating our financial policies.

We know Americans are now the victim of our misguided good intentions, along with our free enterprise system that has been severely damaged and weakened. We know our bad policies have taken the accountability out of our markets by artificially insulating investors from normal risk. This has led to careless lending, careless investing, many bad decisions, and possible criminal activity on Wall Street. While many are blaming Americans and our free enterprise system for the crisis, we know the Government is the root cause of this crisis.

I believe this Congress should admit its guilt, prove we have learned from our mistakes, and correct the bad policies immediately that have caused these problems. We should insist the Federal Reserve end the easy money policy. We should repeal the laws that require our banks to make risky loans, and fix the accounting requirements that force banks to undervalue their assets. We should develop a plan to break up Fannie Mae and Freddie Mac and sell them to private investors who will run them as private companies.

We should reduce corporate and capital gains taxes to encourage capital formation and boost asset values. We should also repeal the section of Sarbanes-Oxley that has driven billions of dollars of capital overseas. And we should do even more to grow our economy and lessen our dependence on foreign countries. We should immediately pass a law that expedites the development of our oil and natural gas reserves to help relieve the burden of high prices and gas shortages for our families.

We should immediately adopt a freeze on nonsecurity discretionary spending and pass a moratorium on earmarks until we fix this wasteful and corrupting system. We should sacrifice our political pork as we ask taxpayers to sacrifice for our mistakes.

We have caused a terrible financial mess, and we must honestly tell the American people that whether we pass this huge bailout or not, there will likely be suffering and pain for our great country. But Americans and our free market economy are resilient. And with fewer misguided laws and less onerous regulations, we will get through this crisis, as Americans have many times before. But we must tell Americans the truth.

Congress says it was deregulation and capitalist greed that has run wild and undermined our financial system. Instead of reducing our role in the economy, we are trying to use this crisis to expand our power to control and manage the free enterprise system. We are here saying that our banks and mortgage companies have stopped lending money, that people can't get loans to buy cars, homes, or to run a business, and that our economy of the United States is on the verge of collapse.

We are telling people not to worry because we are going to rescue them with their own money. Congress is going to allow the Treasury Secretary to take $700 billion from taxpayers to buy bad loans and investments from anyone he chooses anywhere in the world. This, we say, will free up capital, get the credit markets working again, and put our economy back on track.

But this Congress refuses to change our Nation's monetary policy that created the cheap money and inflated the housing bubble. We refuse to change the accounting laws and regulations, even though they are making the problem worse. We refuse to lower capital gains and other taxes to attract capital and promote growth. We refuse to repeal Sarbanes-Oxley, even though it hasn't worked and it has cost our economy billions. And we refuse to expedite the development of America's energy resources, even though it would help every American and grow our economy.

None of these things are even on the table for discussion. We are telling the American people to hand over $700 billion or the world economy is going to collapse. This is why people are so upset. It is because Congress is being dishonest and arrogant. We are not being honest with them about how we got into this mess, and we are not

being honest with them about what we need to get out of it.

I strongly oppose this legislation. It takes our country in the wrong direction. It forces innocent taxpayers to bail out Government policies and Wall Street mistakes. It asks the American people to take a leap of faith and trust people who have consistently misled them.

I am deeply saddened by the tone of this debate. I am afraid many of the supporters of this bill have bullied people into supporting it, using fear. There may be good reason for fear, but I think most people will agree that some of the statements have been reckless and irresponsible. I hope I am wrong and this bill will truly solve the problem.

Let me say again that I know every one of my colleagues is doing what they believe is right for America. But based on what I know, I cannot in good conscience support it. I know the Senate is going to pass it tonight, and I can only hope the House will defeat it so we can pursue better alternatives.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Michigan.

LOAN TRANSFER RIGHTS

Mr. LEVIN. Madam President, large numbers of mortgages acquired by the Government under this proposal are going to need to be modified. Large numbers of mortgages are going to need to be refinanced. If it becomes useful to hire outside companies that have the expertise and technology ready to work with borrowers and financial institutions to modify or refinance mortgages, it is important that the Government have the authority to do so.

Is it your understanding that Treasury, the FDIC, or whomever Treasury selects to manage the residential mortgage loans the Government purchases, has the authority to enter into contracts with private companies on a competitive basis to facilitate loan modifications or facilitate refinancings, should the Government decide to do so?

Mr. DODD. Yes, under current law and under the provisions in this bill, that authority exists.

Mr. LEVIN. Does Treasury have the authority to transfer the servicing rights to any modified or refinanced loan?

Mr. DODD. Yes.

Mr. LEVIN. I thank the Senator.

AMENDMENT NO. 5687

Mr. SANDERS. Madam President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. SANDERS] proposes an amendment numbered 5687.

Mr. SANDERS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to increase the tax on high income individuals)

At the end add the following:

SEC. 304. SURTAX ON HIGH INCOME EARNERS.

(a) IN GENERAL.—Part I of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 1 the following new section:

"SEC. 1A. INCREASE IN TAX ON HIGH INCOME INDIVIDUALS.

''(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 10 percent of so much of modified adjusted gross income as exceeds $500,000 ($1,000,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)).

''(b) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this section, the term 'modified adjusted gross income' means adjusted gross income reduced by any deduction allowed for investment interest (as defined in section 163(d)). In the case of an estate or trust, a rule similar to the rule of section 67(e) shall apply for purposes of determining adjusted gross income for purposes of this section.

''(c) NONRESIDENT ALIEN.—In the case of a nonresident alien individual, only amounts taken into account in connection with the tax imposed by section 871(b) shall be taken into account under this section.

''(d) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 7703.

''(e) NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(f) TERMINATION.—This section shall not apply to taxable years beginning after the date which is 5 years after the date of the enactment of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 1 the following new item:

''Sec. 1A. Increase in tax on high income individuals.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(d) SECTION 15 NOT TO APPLY.—The amendment made by subsection (a) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

Mr. SANDERS. Madam President, let me be very frank. While the bailout package we are dealing with tonight is far better than the absurd proposal that was originally presented to us by the Bush administration—which, if you can believe it, would have given the Secretary of the Treasury a blank check to spend $700 billion in any way he wanted, without any transparency, without any oversight, and without any judicial review—this bill, far better than that, is still short of where we should be. And I want to thank Senator DODD and others for their very hard work in improving this legislation. But in my view, this bill is still not good enough. It should be rejected by the Senate, unless an amendment I am about to offer is passed.

This country faces many serious problems in the financial market, in the stock market, and in our economy. We must act, but we must act in a way that improves the situation. We can do better than the legislation we are dealing with tonight.

This bill does not effectively address the issue of what the taxpayers of our country will actually own after they invest hundreds of billions of dollars in toxic assets.

This bill does not effectively address the issue of oversight, because the oversight board members were hand picked from the Bush administration.

This bill does not effectively deal with the issue of foreclosures, and addressing that very serious issue which is impacting millions of low- and moderate-income Americans in the aggressive, effective kind of way we should be.

This bill does not effectively deal with the issue of executive compensation and golden parachutes. Under this bill, the CEOs and the Wall Street insiders will still, with a little bit of imagination, continue to make out like bandits.

This bill does not deal at all with how we got into this crisis in the first place and the need to undo the deregulation fervor which created trillions of dollars in complicated and unregulated financial instruments, such as credit default swaps and hedge funds.

This bill does not address the issue that has taken us to where we are today, the concept of ''too big to fail,'' the need for taxpayers to bail out institutions which are so large that they will cause systemic damage to our entire economy if they go bankrupt. In fact, within the last several weeks we have sat idly by and watched gigantic financial institutions such as the Bank of America swallow other gigantic financial institutions such as Countrywide and Merrill Lynch.

Who is going to bail out the Bank of America if it begins to totter? Not one word about the issue of too big to fail in this legislation, at a time when that problem is, in fact, becoming even more serious. This bill does not deal with the absurdity of having the fox guarding the henhouse. Maybe I am the only person in America who thinks so, but I have a hard time understanding why we are giving $700 billion to the Secretary of the Treasury, who is the former CEO of Goldman Sachs, which, along with other financial institutions, actually got us into this problem. Maybe I am the only person in America who thinks that is a little bit weird, but that is what I think.

This bill does not address the major economic crises we face—growing unemployment, low wages, and the need to create decent-paying jobs, rebuilding our infrastructure, and moving us

to energy efficiency and sustainable energy.

On top of all that, there is one issue that is even more profound and more basic than everything else that I have mentioned, and that is, if a bailout is needed, if taxpayer money must be placed at risk, whose money should it be? In other words, who should be paying for this bailout which has been caused by the greed and recklessness of Wall Street operatives who have made billions in recent years? That is what my amendment is all about. It is an issue that we have to bring to the floor of the Senate because that is what the American people want to hear discussed.

The American people are bitter, they are angry, and they are confused. Over the last 7 years since George W. Bush has been President, 6 million Americans have slipped out of the middle class and are in poverty. Today, working families are lining up at emergency food shelves in order to get the food they need to feed their families. Since President Bush has been in office, median family income for working-age families has declined by over $2,000; 7 million Americans have lost their health insurance; 4 million have lost their pensions; consumer debt has more than doubled; and foreclosures are the highest on record.

Meanwhile, the cost of energy, food, health care, college, and other basic necessities has soared. While the middle class has declined under President Bush's reckless economic policies, the people on top have never had it so good. For the first 7 years of Bush's tenure, the wealthiest 400 individuals in our country saw a $670 billion increase in their wealth. At the end of 2007 they owned over $1.5 trillion in wealth. That is just 400 families—$670 billion increase in wealth since Bush has been in office.

In our country today we have the most unequal distribution of income and wealth of any major country on Earth, with the top 1 percent earning more income than the bottom 50 percent, and the top 1 percent owning more wealth than the bottom 90 percent. We are living at a time when we have seen a massive transfer of wealth from the middle class to the very wealthiest people in this country; when, among others, CEO's of Wall Street firms receive unbelievable amounts in bonuses, including $39 billion in bonuses in the year 2007 alone for just the five major investment houses.

We have seen the incredible greed of the financial service industry manifested in the hundreds of millions of dollars they have spent on campaign contributions and lobbyists in order to deregulate their industry so hedge funds and other unregulated financial institutions could flourish. We have seen them play with trillions and trillions of dollars in esoteric financial instruments in unregulated industries which no more than a handful of people even understand.

We have seen the financial services industry charge 30 percent interest rates on credit card loans and tack on outrageous late fees and other costs to unsuspecting customers. We have seen them engaged in despicable predatory lending practices, taking advantage of the vulnerable and the uneducated. We have seen them send out billions of deceptive solicitations to almost every mailbox in America.

I used to think that my home was the only one that was receiving them. It turns out that billions of other solicitations went out to probably every home in America. What they hoped to do was to gain new customers for credit card companies and then, through the very small print on the back of the solicitation, have the opportunity, have the ability to monkey around with interest rates so when people thought they were getting zero interest or 2 percent, it turns out that a few months later they were paying very high interest rates.

Most important, of course, we have seen the financial services industry lure people into mortgages they could not afford to pay, which is one of the basic reasons we are tonight in the midst of all of this. We have a bailout package today which says to the middle class that you are being asked to place at risk $700 billion, which is $2,200 for every man, woman, and child in this country. You are being asked to do that in order to undo the damage caused by this excessive Wall Street greed. In other words, the ''Masters of the Universe,'' those brilliant Wall Street insiders who have made more money than the average American can even dream of, have brought our financial system to the brink of collapse, and now, as the American and world financial systems teeter on the edge of a meltdown, these multimillionaires are demanding that the middle class, which has already suffered under Bush's disastrous economic policies, pick up the pieces they broke.

That is wrong and that is something I will not support. The major point I want to make this evening is, if we are going to bail out Wall Street, it should be those people who have caused the problem, those people who have benefited from Bush's tax breaks for millionaires and billionaires, those people who have taken advantage of deregulation—those people are the people who should pick up the tab and not ordinary working people.

I have introduced an amendment which gives the Senate a very clear choice. We can pay for this bailout of Wall Street by asking people all across this country, small businesses on Main Street, homeowners on Maple Street, elderly couples on Oak Street, college students on Campus Avenue, working families on Sunrise Lane—we can ask them to pay for this bailout. That is one way we can go or we can ask the people who have gained the most from the spasm of greed, the people whose incomes have been soaring under President Bush, to pick up the tab. They threw the party, they became drunk on greed, and now I believe they should foot the bill. What my amendment proposes is quite simple. It proposes to raise the tax rate on any individual earning $500,000 a year or more, or any family earning $1 million a year or more, by 10 percent. That 10-percent increase in the tax rate from 35 percent to 45 percent will raise over $300 billion in the next 5 years; $300 billion is almost half the cost of the bailout.

If what all the supporters of this legislation are saying is correct, that the Government will get back some of its money when the market calms down and the Government sells some of the assets it has purchased, this amount of $300 billion should be sufficient to make sure 99.7 percent of taxpayers do not have to pay one nickel for this bailout.

Most of my constituents did not earn a $38 million bonus in 2005 or make over $100 million in total compensation in 3 years, as did Mr. Henry Paulson, current Secretary of the Treasury and former CEO of Goldman Sachs. Most of my constituents did not make $354 million in total compensation over the past 5 years as did Richard Fuld, the CEO of Lehman Brothers.

Most of my constituents did not cash out $650 million in stock after a $29 billion bailout for Bear Stearns, after that failing company was bought out by JPMorgan Chase. Most of my constituents did not get a $161 million severance package as E. Stanley O'Neil, former CEO of Merrill Lynch, did.

Last week, I placed on my Web site, sanders.senate.gov, a letter to Secretary Paulson in support of the content of my amendment—which was pretty simple. It said that it should be those people best able to pay for this bailout, those people who have made out like bandits in recent years—they should be asked to pay for this bailout. It should not be the middle class.

To my amazement, and I am a Senator from a small State—to my amazement some 48,000 people—and here they are, these are their names, and I will not read them all off, 48,000 people have already cosigned this petition, and the names keep coming in and the message is very simple: We had nothing to do with causing this bailout. We are already under economic duress. Go to those people who have made out like bandits. Go to those people who have caused this crisis and ask them to pay for the bailout.

The time has come to assure our constituents in Vermont and all over this country that we are listening and understand their anger and their frustration. The time has come to say that we have the courage to stand up to all of the powerful financial institution lobbyists who are running amok, all over this building—from the Chamber of Commerce to the American Bankers Association to the Business Roundtable—all of these groups who make huge campaign contributions, spend all

kinds of money on lobbyists—they are here, loudly and clearly. They don't want to pay for this bailout. They want Middle America to pay for it.

So this is a moment of truth. I hope very much that this Senate will support the amendment I have offered.

Madam President, I reserve the remainder of my time.

Mr. DODD. I thank the Senator from Vermont for his passion, eloquence, and commitment. He is never shy. This institution could use a little bit more of similar expressions of feelings for constituents. I thank him for that speech.

I see my colleague from Alabama. We are going back and forth. At that point after Senator SESSIONS, Senator SCHUMER is next in line.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I believe I am to be recognized for 10 minutes, but I ask that I be notified after 5.

The PRESIDING OFFICER. The Senator will be notified.

Mr. SESSIONS. Madam President, I would like to say to Senator SANDERS a couple things. First, I think it is indeed breathtaking that this Senate would authorize basically one person with very little real oversight, a Wall Street maven himself, and allocate $700 billion in America's wealth, which I would have to say would be the largest single authorization of expenditure in the history of the Republic.

So I have to say, fundamentally, I think we have not done a good enough job in creating an oversight mechanism that will work, so I am not going to vote for the bill; I am not. I would say, however, and note this point, that my colleague, Senator SHELBY from Alabama, chaired the Banking Committee in 2005. He held hearings on the problems at Freddie Mac and Fannie Mae.

Alan Greenspan, the then-Chairman of the Federal Reserve, wrote a letter saying that if we did not fix Freddie and Fannie this very kind of calamity would occur. He put that in writing. Senator SHELBY pushed through legislation to regulate it. It came through the committee on a straight party-line vote; all Republicans, as I recall, voted for additional oversight and reform of Freddie Mac and Fannie Mae, and all Democrats voted against additional regulation of Freddie Mac and Fannie Mae.

So I wish to say, I am prepared to support good regulation, sound regulation, and I reject the idea that this problem all arose because Republicans opposed regulation.

AMTRAK

In a few minutes we are going to have a vote on Amtrak reauthorization and appropriations as a standalone bill. The majority leader, Senator REID, has filled the tree. That means we cannot offer any amendments. In the late 1990s, we directed that, after 2002, Amtrak would no longer receive funding from the Federal Government. We ordered that. And yet, we are again appropriating, for 5 years, almost $2 billion a year to fund this entity. We do not stand by our decision.

Why is Amtrak losing money? Primarily it is because long-distance trains account for 80 percent of its cash operating losses, while carrying only 15 percent of the passengers.

Now, I know people have romantic views about trains. They would like to see everybody ride in trains. But people are not riding trains for long distances. And as a result, the taxpayers are eating huge losses. I would say, fundamentally, we can do better about that, and we need to quit mandating, for political reasons, routes that might pass through our States but are dead losers.

The Heritage Foundation did a study on a predecessor bill that was very similar to the one we are considering. They found that the bill would only disrupt the necessary reform process and perpetuate low-quality service at a much higher cost to the taxpayers. This bill lacks any substantive reform proposal, it is replete with directives, alterations, restructurings, subsidies, reports, 5-year plans, and other forms of top-down micromanagement techniques that are designed to create the impression that Amtrak is making improvements. In fact, Heritage said, instead of reforming and improving Amtrak, the legislation may actually make it worse.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. SESSIONS. I would say one more thing. I checked the price of a train ticket from Birmingham, AL, to Washington, DC. I found that the train makes 18 stops and takes 18 hours. The Amtrak ticket is $445. What happens if you take a one-stop flight from Alabama to Washington? It costs a little over $300, and makes only one stop. So this is why people are making these choices. They have multiple choices on when they leave Birmingham and what time they want to leave on a flight to Washington. But a person on a train can only leave one time a day; it takes them 18 hours, and they have to eat on the train at high cost.

That is why we are having problems. We should have had reform in this Amtrak bill, and I do not like that it is brought up at the very last minute, and the majority leader has fixed it so there can be no real debate or amendments offered.

AMT

The alternative minimum tax patch is a huge part of the tax extenders package. It will cost almost $79 billion in tax revenue, just this year alone. And it is extraordinarily skewed to favor single individuals. In 2006, around 7 percent of married taxpayers with children were AMT filers, compared to less than 1 percent of single individuals.

Families with children are getting caught up in it, because when you calculate your alternative minimum taxable income, you can't claim personal exemptions. It is unfair to those families. It is also unfair to the low-tax States. High-tax States benefit much more than lower tax States such as Tennessee or Alabama, because you also can't claim deductions for state and local taxes.

We need a better AMT fix next year. Perhaps it is too late to do it this year. But I urge my colleagues next year when this issue comes up, we need to look at this very closely. We need to be sure we end this bias against struggling families; we need to end the bias against States that do not have high taxes.

I yield the floor and yield back the remainder of my time

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, the Senator from New York is next.

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

Mr. SCHUMER. Madam President, first, I wish to compliment my colleague from Illinois, BARACK OBAMA. His speech was not only on the money, but the way he has handled himself throughout this crisis has been nothing short of Presidential. He has been erudite, he has been thoughtful, he has been effective, he has been behind the scenes, no showboating, no big statements, untrue to what he is. He was perfect.

Now I rise to support the legislation before us. It has become clear over the past few months we live in amazing and dangerous times. Who would have ever thought that the lowly mortgage, long regarded as the safest of investments, could bring our financial system to its knees.

The system was overleveraged, overextended, overoptimistic. Now we are all paying the price. But that is where we are. While we must look back and see what went wrong, we also have to look forward—that is our immediate task—and try to avoid a meltdown.

As we confront this crisis, we are faced with dangers on both sides; Scylla, the proverbial monster, from doing nothing, a real danger; Charybdis, the whirlpool, from doing the wrong thing. It is as bad to do the wrong thing as to do nothing.

There are real dangers to inaction. Chairman Bernanke held us spellbound in the Speaker's office Thursday night when he described the conditions of the economy, without hyperbole, without raising his voice. His discussion was, in short, frightening. Our economy's body is in terrible shape because its arteries, the financial system, is clogged. It will cause a heart attack, maybe in a day, maybe in 6 months, but we will get a heart attack for sure if we do not act.

So we must act. Unfortunately, when we act, we are not just acting for Wall Street. Unfortunately, Wall Street, with all its excesses, is connected to Main Street. Right now, you cannot get a car loan if you do not have a FICO score, a credit rating score that is very high, 720.

If that stays, we will sell 6 million fewer cars this year, and tens of thousands of workers in Buffalo, in Detroit,

and St. Louis will be laid off through no fault of their own. That is not right. That is not fair. That is the system in which we live.

If we do nothing, we hurt innocent workers, millions, even though they were not to blame. But there was also the danger of Charybdis, doing something wrong. Let's make no mistake about it. The plan Secretary Paulson first presented was awful—$700 billion, a blank check, an auction: you let me do it, I will figure it out, even exemptions from breaking the law, the language seemed to say.

Through the hard work of the chairman and many of us on the Banking Committee, both sides of the aisle, the other house, we changed it. There is real tough oversight. There is protection for the taxpayers. Senator REID did an amazing job in getting warrants written in the bill that are mandatory and tough. The taxpayer will come first, before the bondholder, before the shareholder, before the executive.

We worked hard as well to limit executive compensation. It is not everything the Senator from Montana, the chair of Finance, and I wanted in the negotiations but a good, large first step. We broke down the amount. There will have to be congressional approval for the second $350 billion. There will be a requirement that the President notify for $100 billion. So the first amount of money, $250 billion is given with this legislation, another $100 billion for the President, if he certifies real need; but $350 billion subject to congressional disapproval. Even if we are out of session, we will come back.

So the legislation was improved, and it was logical to improve it; $700 billion is a lot of money, even on Wall Street. None of the thousands of money managers would invest that sum without appropriate due diligence. There were times when the Secretary of the Treasury was saying: You do not have to do due diligence. We deferred.

So to Secretary Paulson's TARP proposal we have added some important provisions, THO, taxpayer protection, housing and oversight. The new additions add, because the new additions are AMT relief—I ask unanimous consent for an additional minute. I thought I was supposed to get 6.

Mr. DODD. I will give the Senator an additional minute.

Mr. SCHUMER. Thank you. We have added THO, taxpayer protection, money for homeowners and real oversight. And now more. The new additions Senator REID came up with will be money directly to Main Street, money for businesses that invest to create jobs during a time of economic downturn, tax breaks for new kinds of energy—solar, wind—that our economy awaits, relief from the AMT, which affects not the wealthy but in New York, at least, people making $50,000, $75,000, $100,000, $125,000 who were paying too much under the AMT.

So this package is an improvement. Is it the way I would have written it? No. Is it the way any of us would have individually written it? No. But given the improvements, this package is better, significantly better than doing nothing. I hope we will get strong bipartisan support tonight, I hope we will get strong bipartisan support in the House, and then we will move on to make the regulatory changes so this never happens again.

The PRESIDING OFFICER (Mrs. LINCOLN). The Senator from New Mexico.

Mr. DOMENICI. Madam President, I want to quickly thank a few people. It is obvious, the people who have worked extra hard and done such a marvelous job. But I have been involved many times in negotiations such as this. In fact, the last time we did one of these, I was chairman of the Budget Committee, and we had a savings and loan bailout. I remember it well. It is worth mentioning for a moment because, as Senator DODD will remember, just as our Secretary of the Treasury is telling us, if this works right, we could, in fact, make money instead of losing money. So whenever we talk about $700 billion as if it were being lost or given to somebody and they could run away with it, when we did the savings and loan bailout, we were told when you pay for all these assets and take them in, they may bring you as much money as you spent. And lo and behold, it took a few years, but the Treasury made money on that last bailout we had to put together. I predict that the amount of money that will be lost on this one will be much less than the 700. As a matter of fact, if it worked right, the taxpayer could get reimbursed and, in fact, some money could get paid down on the national debt. I start with that.

Having said that, I thank those who spent extra amounts of time, energy, and did a great job, starting with the chairman of the committee, Senator DODD. I don't think we ought to be partisan. I heard some Democrats talk about only Democrats that had been active in this. It wasn't you, Senator DODD. But you know that on your side you were busy. On our side we had a rather marvelous negotiator named JUDD GREGG. I believe we want to thank him unequivocally for his work. He surely has done a yeoman job with Republican Senators, explaining what you all were doing. From that, there are numbers of other people, and I say thanks to all. You have done a terrific job.

Our job here in the next few hours is to pass a bill and send it to the House and challenge them to vote for it. It is past time, but it is absolutely obvious that we must put confidence back into the credit system of the United States. We must put confidence back into the credit system of the United States. That means this rather fantastic credit system, which has gone awry without any doubt, because it has been manipulated, abused, but nonetheless it is still the greatest delivery system that the world has ever seen in terms of delivering money where money has to be, where money is needed, is now rocking. It is in the tenth round of a heavyweight bout, and it is about to be knocked out. We have to do something to make sure that doesn't happen.

I am very pleased that the Secretary of the Treasury, in spite of whatever faults have been enumerated on the floor—and he claims some faults himself. He talks about not being an eloquent speaker. I imagine he hears Senator DODD or he hears some other Senator, and he goes back and does his work, and he wonders why the good Lord made him so that he can't talk as well as them. But he knows a lot. For those who don't think he should have been in this job, they are mistaken. He has come up with solutions to this point.

He has told us how to solve the problem of the credit system being filled with toxic assets. Toxic assets have been explained enough here for me not to have to do it again, but essentially, for the most part, they are mortgaged-backed securities that are no good. They were no good from the beginning; ''no good'' meaning the person who bought the house and gave the mortgage could not have made the payments from the very beginning. They were given an opportunity to buy and sign the promissory notes, with people having full knowledge that they weren't earning enough. They were a credit risk, and they should not have had these mortgages.

There were so many of them issued over the past 10 to 12 years that they permeate the system. When they get there in sufficient numbers, they clog the system, much like cars on a freeway speeding at 65 miles an hour and having a crash. It is across all six lanes. All the cars are stopped until you move the broken-down, crumbled-up cars. You move them off, and then things run again. So we must move them off and let the part of the American financial system that is great, let the liquidity run its course so it is available where money should be available under the American free enterprise, capitalist system.

We are hopeful that Secretary Paulson, in analyzing this, analyzing the way to get that wreckage out of the way, in creating this $700 billion entity that could go out there and use that money to buy up this salvage, hold it in the name of the people, can then, believe it or not, sell it so that they might make money off of it. That is perhaps why Secretary Paulson came to us with four pieces of paper saying: This is what we ought to do. He clearly understood that while it is complicated, it is very simple. While it takes many pages because of the way we do legislation, four pages explains it in his language, as he would need the language to do his job.

In any event, the current situation in the United States has created a problem where the financial and credit markets are blocked up. No matter

how you say it, either say toxic assets, with salvage from a car wreck, call it what you may, you must get the toxic assets out of the way. That is what this fund is going to do.

I, for one, had a difficult time at the beginning understanding why we should do this. I actually was kind of upset and mad at the same time that we were in this situation at this particular time in our economic history, when such modernism has been imposed on the financial system in great gobs. It is terrifically efficient and modern, filled with all kinds of technological breakthroughs that make the system work. Here we were, nonetheless, loading a system with promissory notes and mortgages that from the very beginning were not going to make it, thousands upon thousands of them being packaged up, with a bow put on them, making them look like securities that were valuable and shipping them out and getting them through the market.

What we are being asked for here tonight is to vote yea for a bill that contains the proposed rescue mission that Secretary Paulson, on behalf of the President, has put together and submitted to us. We made it better in that we made sure it has oversight. We made sure that the other things our people were complaining about were taken care of. We have taken care of those, and it is a better bill in that regard.

Then we were shocked the other night when the House voted no on the bill. It has come back to the Senate, and here our people have thought it through. I hope House leaders have paid attention and listened. As I look down at my friend Senator DODD, I say I am hopeful and certainly almost positive that he and others have talked to the leadership on the House side about what we are going to do tonight and what we hope they will do, when they get the results of our vote.

I think I am safe in predicting the enthusiasm around here is to vote this out. It will pass overwhelmingly, in my opinion. Nobody is happy. Nonetheless, we are going to get it done. This is one of the most difficult situations to explain to the American people that I have ever been involved in.

This afternoon, I was on a little TV show, and the announcer said to me: Senator DOMENICI, I want to ask you a question that I was asked today.

I said: You mean this day, today?

Yes, an hour ago.

What was the question, I said.

He said: I have $250,000 and I would rather lose it than to see our banking system socialized. Why aren't you saying that? She said to the announcer, why aren't you condemning the socialization of our banking system?

Of course, it was my turn to answer. I said: My oh my, it is hard to explain to people. First of all, the Secretary is only given 2 years to accomplish this entire job, 2 years. In 2 years, I think we could hardly socialize a system as big as the United States banking and finance system. You are in and out and hope it works. So I believe many people in this country are paying attention and trying to understand it, but we are all having difficulty communicating.

I hope when we are finished tonight, we will be able to explain it better to our people. And before we are finished, some of the fear and trepidation that Members of the House have about voting for this can be dissuaded and we leave the scene. And we can vote with confidence for the country, for the right thing, and make sure that our finance system is given a chance to come out from under this absolutely perilous load that has been thrust upon it.

There will be plenty of time after that to assess blame. I would caution that if you read anything about it, either side ought to be careful about laying blame on the other side. I look to the Democrats and say: Be careful as you try to blame President Bush and Republicans exclusively for this. I say to Republicans the same thing.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I yield 5 minutes to my distinguished friend and colleague from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I am as angry as any New Jerseyan, as any American, about the economic situation we have been put in. But the truth is, for those who are honest with themselves, they know we are in an economic crisis and doing nothing is not an option. If we don't get credit flowing again, businesses won't be able to operate. People in our neighborhoods will lose their jobs. Getting a loan for a car, an education, or a home will become increasingly difficult, if not impossible. I believe the American dream itself is facing one of the greatest risks in recent history. What we have before us is an economic stabilization plan. It is not perfect. But it will help protect and create jobs by restoring stability and confidence to our economy.

We have taken the plan the administration sent us. We rejected it and reworked it. George Bush first sent us a plan with no accountability, a plan where the idea of checks and balances was: We write the check, and they fill in the blank. But we have changed that plan, made vast improvements, and put taxpayers first. The plan provides for oversight, accountability, an oversight board, and a special inspector general. The plan makes sure there is congressional review and, ultimately, approval for any additional funding over $350 billion. In this plan, taxpayers will be treated as investors. If we take on a risk, we will be given warrants, the equivalent of a shareholder, given a stake in any future profit that might lie ahead for that company.

If we step in during the decline, taxpayers must be allowed to share in the profit. So the plan is structured to reward taxpayers with profits while protecting them from losses.

This plan says there will be no more golden parachutes. People who led us into this mess cannot be rewarded for failure. Besides strengthening our economy's foundation, it creates jobs, provides relief for struggling homeowners, and will help small businesses access credit, the small businesses that create 75 percent of America's jobs.

Tonight's vote provides also tax relief for the middle class by taking care of the alternative minimum tax in the next year. It pushes for loan modifications to help struggling homeowners stay in their homes and stop property values from falling in our neighborhoods. This vote tonight invests in America's renewable energy, to drive down gas prices and create American jobs that can't be outsourced.

Now, this plan is not perfect, but it is necessary. We still have a long way to go toward tackling the root of this crisis, which is the housing market. I hope we will set the goal of saving at least a million families from foreclosure. We still have a long way to go to establish the strong regulatory enforcement I have called for in the past that prevents the kinds of abuses that got us into this situation in the first place. But, again, doing nothing is not an option. Jobs are on the line. People's cars, houses, and educations are on the line. Those who would reject this plan tonight out of ideology will be punishing not the CEOs but hundreds of thousands of Americans who will lose their jobs.

Madam President, I am going to heed the call of Senator OBAMA. It is time for us to come together and act in the best interests of this country. Clearly, we are experiencing unprecedented times. I, along with some of my colleagues, warned many times in the past about the gathering specter that irresponsible lending posed, but we were dismissed as alarmists. This is one instance where I wish I had been wrong.

But tonight is not about looking back and pointing fingers. It is about looking forward and preventing even further damage to our economy before it is really too late. Tonight is about keeping the American dream stable enough that we can make it a solid promise for tomorrow, and that is why I will be voting yes.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I ask unanimous consent to be recognized to speak for up to 15 minutes.

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

Mr. SHELBY. Madam President, I rise today to speak before we take what will be one of the most important votes, unrelated to war, many of us will cast in the U.S. Senate.

The proposal before us provides $700 billion to buy illiquid assets from financial institutions. The stated goal of this scheme is to return confidence and liquidity to our credit markets.

We did not get into this situation in a matter of days, and we are not going to fix it with a piece of legislation quickly cobbled together in back rooms of the U.S. Capitol.

In fact, this crisis has been years in the making. Over the last decade, trillions of dollars were poured into our mortgage finance markets, often at the direction of well-intended, albeit ill-conceived, Government programs.

At first, the money backed conventional mortgages with standard downpayments and properly verified incomes.

Over time, the number of home buyers who met conventional loan requirements dwindled. In order to fuel the upward spiral, mortgage products became more exotic, requiring less of borrowers and involving more risks.

Without regard for fiscal prudence and simple economics, mortgage brokers, realtors, homebuilders, mortgage bankers, and home buyers created the conditions that helped inflate the housing bubble.

At the same time, Wall Street was developing ever more sophisticated finance vehicles to ensure that money continued to flow into the mortgage markets to meet the demand.

Mortgages were pooled, packaged, and rated ''investment grade'' by the credit rating agencies. They were then sold into a market eager to purchase securities with a wide range of risks and yields.

Many purchasers employed massive amounts of leverage, layering risk upon risk in an effort to maximize return. To cover their risks, many of these buyers also bought credit protection from one another, entering into derivatives contracts with nominal values in the hundreds of trillions of dollars.

Eventually, economic reality caught up with us. Housing prices stalled and then began falling.

Many who bought homes with unconventional loans were unable to afford their rising payments. Because home values were dropping, they were unable to refinance and delinquency rates skyrocketed. This trend has not yet abated.

Once homeowners began defaulting, the value of mortgage-backed securities plummeted.

Collateralized debt obligations, or CDOs, that were comprised of the riskiest mortgage-backed securities became worthless. As a result, financial institutions holding securitized assets have suffered enormous losses and have been desperately trying to raise new capital.

I have been a member of the Senate Banking Committee for over 20 years. When I joined the committee, the savings and loan crisis was just beginning to unfold.

Let me remind my colleagues that it took nearly 10 years, five Congresses, and 3 administrations until that smaller, more contained crisis was resolved.

Personally, I learned a few solid lessons from that experience. I came to understand that bank management, bank capital, and sound regulatory policy make a major difference.

What I learned then has guided me ever since.

For example, in 1995, I opposed the expansion of the Community Reinvestment Act. I did not take this position because I am against lending to minorities or low-income individuals. My concerns were based on the simple fact that credit cannot be safely extended on any basis other than risk, and risk cannot be mitigated through social engineering.

The appropriate allocation of credit is not political, it is based on merit. Those with good credit receive the best terms and lowest rates. Those with bad credit receive the worst terms and the highest rates, or in some cases, no credit at all.

The CRA was an attempt to get around this fact and it failed. I remind my colleagues of this as we prepare to buy assets backed by the very same mortgages born of this flawed policy.

I find it ironic that many of those who supported the legislation that upended the basic concept of risk-based lending are now saying that our present circumstances are an indication that the free market failed. Federal policy, not free market decisions, fueled risky loans to unqualified borrowers.

In 1999, I opposed the financial modernization bill. Despite Alan Greenspan's proclamations, I did not think it provided a sufficient regulatory structure to oversee the financial system it created. I was also concerned that it lacked some basic consumer privacy protections. Many are now claiming that deregulatory effort led us directly to where we are today.

In 2001, I became concerned about the banking regulators' effort to modernize bank capital standards through what is known as Basel II. While it was very important to update those standards, it appeared to me that ''modernization'' was focused more on reducing bank capital levels than improving bank capital standards.

During the process, it often seemed that the regulators were more interested in industry priorities than protecting the banking system. I spent nearly 5 years trying to ensure that the regulators produced a balanced rule that focused on safety and soundness.

When I became chairman of the Banking Committee in 2003, I immediately became concerned with the financial health and regulatory structure of the Government sponsored enterprises, Fannie Mae and Freddie Mac.

I did not think the entities had sufficient capital, management controls, or regulatory oversight. I was particularly troubled about their size because their combined portfolios amounted to nearly $2 trillion at that time.

I believed that their operations posed a systemic risk to the financial markets. After each disclosed that they had committed serious accounting fraud, my concerns grew more focused and I stepped up my efforts to pass legislation.

Those efforts were rebuffed by the Democrats on the Banking Committee. And, let us be clear as to what the GSEs were doing at this time.

From 2004, when we began considering GSE legislation, up until very recently, the GSEs went on a nearly trillion dollar sub-prime and Alt-A mortgage-backed security buying spree. Madam President: $1 trillion.

I do not know for sure what motivated them in this effort, but I do know the GSEs were spending hundreds of millions of dollars lobbying Congress in an effort to stave off additional regulation.

Fannie's and Freddie's greatest allies were those that advocated and, at times, demanded that the GSEs continue to facilitate sub-prime and Alt-A borrowing. As long as they complied, real regulation was dead.

This symbiotic relationship, in turn, fueled an already over heated market to grow even hotter.

As the driving force in mortgage finance, this purchasing effort also broke down what scant underwriting standards remained in the market place. Many, if not most, of the toxic assets that this taxpayer-funded bailout is designed to buy were originated in an atmosphere created by the GSEs and facilitated by their supporters here in Congress.

During the securitization boom that took off in the last 5 years, I also became very concerned about the regulatory oversight of the credit rating agencies whose ratings were crucial to getting securities sold.

When I looked at the system in place, I soon realized it was dominated by two companies and that the regulatory structure provided no real oversight and actually prevented competitors from entering the market.

Considering the value that mutual, money market, retirement pension funds, and insurance companies, and other important investors place on the ratings, I recognized that immediate legislative action was necessary to address the shortcomings of the oversight regime. We took that action in the fall of 2006.

Unfortunately, it now appears even that effort came too late. The rating agencies provided investment-grade ratings on securities worth hundreds of billions. A large percentage of those ratings have since been downgraded.

I remind my colleagues that those securities also happen to make up the troubled assets that are now the focus of this bailout.

Finally, in 2007, I publicly questioned the adequacy of the Securities and Exchange Commission's Consolidated Supervised Entities Program.

This nonstatutory program was put in place by the SEC to allow the five big investment banks to meet European regulatory standards without having to submit to Federal Reserve

supervision as provided in the Financial Modernization Act. The program also allowed the investment banks to significantly reduce their capital requirements.

Because I already felt that the 1999 act did not provide adequate supervision, I was troubled that the investment banks continued to chafe even at this minimal supervision.

With their trillions in assets, global operations, and hundreds of thousands of employees, they were content to be ''regulated'' by a program with a staff of less than 20 people, and they vigorously lobbied the Banking Committee to keep it that way.

Needless to say, I had serious concerns about this arrangement.

These concerns crystallized when Chairman DODD marked up legislation that would not only have codified the SEC's regulatory concoction, but also would have expanded the powers of the investment banks, allowing them access to taxpayer-insured funds through ownership of insured depositories.

I requested that the Banking Committee hold hearings to examine this structure in greater detail before we ratified that which the SEC created through regulatory fiat. Once again, we did not.

Instead, my Democrat colleagues voted not only to codify the CSE program, but also to expand it. My Republican colleagues voted to reject it and argued for additional committee action.

Today, the CSE program is gone because our investment banks have either gone bankrupt, merged, or become that which they fought so hard to avoid: Bank holding companies supervised by the Federal Reserve.

I would also like to point out to my colleagues that a large number of the assets that will be purchased under the Paulson plan were either originated or held by the CSE regulated firms: Bear Stearns, Lehman Brothers, Merrill Lynch, Morgan Stanley, or Goldman Sachs.

We did not get to where we are today by accident, it was a path we chose.

My warnings about the risk of basing credit decisions on well-intended social mandates rather than sound, fact-based underwriting were dismissed.

My concerns about the inadequacy of the regulatory structure put in place in the financial modernization legislation went unacknowledged.

My efforts to ensure that bank capital standards were designed to ensure safety and soundness, rather than industry concerns, were conducted largely alone.

When I urged focus one of the SEC's Consolidated Supervised Entities Program, my Democrat colleagues ignored me and instead voted to ratify and expand the program.

When we attempted to pass meaningful GSE reforms, we were repeatedly stopped.

I commend Senator DODD, who in the end, worked with me to pass a bill. Unfortunately, that effort came too late because the GSEs had already gorged on billions of dollars of toxic sub prime paper and no longer could function on a stand-alone basis.

As often as I have argued that we needed to address systemic risks in the financial markets, my advice has been dismissed, and my concerns have proven to be fully justified.

I now have serious concerns about the bailout package we are preparing to pass.

My foremost concern relates to the manner in which we are attempting to address the problem.

The Paulson plan focuses on a single problem—illiquid assets held throughout the financial system.

I believe we have a number of interrelated problems that need to be addressed in order of their significance.

First, and most urgent, is liquidity. Then we must address the solvency of our financial institutions and declining home values, not to mention our entire regulatory structure.

I believe Congress can address the liquidity issue by increasing the combined resources of the Federal Reserve System and the Treasury.

By enhancing the Federal Government's existing lending facilities and guarantee programs, we can help stabilize money market funds and provide loans to troubled financial institutions without exposing taxpayers to massive losses. This act alone would allow us some time to consider thoroughly our next steps.

Thereafter, we must determine how to address the troubled assets on the books of financial institutions and continue the process of dealing with declining home values. This will likely be a long and difficult process, a fact that is not being shared with the American people.

As long as we address the immediate liquidity problem by expanding lending facilities using the illiquid securities as collateral, we can then take the necessary time to do our work in a more responsible and thoughtful manner. It appears, however, that we are not going to subject this bill to our normal process.

With that in mind, I would like to take some time to look more closely at what this unprecedented piece of legislation would do.

The Emergency Economic Stabilization Act of 2008 would create the Troubled Asset Relief Program.

It would authorize the Treasury Secretary to purchase up to $700 billion worth of troubled assets from just about any type of institution.

In exercising this authority, the Secretary would be vested with nearly unfettered power.

The Secretary could purchase any financial instrument he deems necessary to promote financial market stability. He could purchase not only mortgage-related assets, but securities based on credit card payments, auto loans, or even common stock.

The Secretary could purchase assets from any institution, not just financial institutions so long as they have ''significant operations in the United States.''

What constitutes ''significant operations'' is left undefined, leaving the Secretary a great deal of latitude in determining which institutions would qualify for the program.

Certainly the Secretary could purchase assets from private equity firms and hedge funds, but also corporations and State governments. Given the lack of standards and the breadth of the Secretary's authority, it should be no surprise if politically connected entities get special treatment under this program.

Under a provision hidden deep in the legislation, the Treasury Secretary also has the authority to purchase troubled assets from foreign central banks and governments.

The Secretary has unlimited authority on how the purchased assets are managed and sold. Treasury could even set up Government-run hedge funds that compete with private companies.

While the Treasury Secretary's authority expires at the end of 2009 and can be extended for only 1 additional year, the Treasury's authority to manage purchased assets is perpetual.

Treasury could also purchase assets after the termination of its authority, if it has entered into agreements to purchase prior to the termination date. This program will be with us for decades to come.

The few restrictions imposed on the Treasury Secretary's authority could undermine the effectiveness of the program. If the Secretary purchases more than $100 million in troubled assets from an institution, he must obtain non-voting common stock or preferred equity in the institution.

To complicate matters further, the bill does not provide clear guidance on how many warrants the Secretary should obtain or what their terms should be.

If the Secretary makes direct purchases of troubled assets, the selling institution must adopt standards on executive compensation and corporate governance.

If the Secretary purchases more than $300 million in troubled assets from an institution, the institution must adopt restrictions on executive pay and golden parachutes for any new senior executives it hires.

The legislation also restricts the amount of executive compensation participating institutions can deduct for tax purposes. While this may make us feel good, these provisions will likely limit the number of institutions that utilize the program.

Not to mention that the compensation restrictions are prospective. In other words, the people who created this mess get to walk away with cash in hand, and the people hired to clean it up get penalized.

This will no doubt undermine their efforts to resolve their financial problems by hindering their ability to hire new management

Upon enactment of the legislation, the Treasury Secretary is authorized to purchase up to $250 billion in troubled assets. This purchase authority can be increased by another $100 billion if the President certifies that such additional authority is needed.

The Secretary's authority can be, and likely will be, increased to $700 billion if the President certifies the need and Congress does not enact a joint resolution of disapproval.

It is extremely difficult to obtain the two-thirds votes in both the House and Senate to override a veto. Therefore, for all intents and purposes, this distribution system is a mirage. It does not effectively limit the Treasury Secretary's ability to spend $700 billion.

The bill would establish a Financial Stability Oversight Board to review and make recommendations on the Secretary's operation of the program. The oversight board is fatally flawed.

First, the Secretary of the Treasury is one of its members. This means that the Treasury Secretary is reviewing his own actions.

Second, the other members of the board include the Chairman of the Fed, the Director of the Federal Home Finance Agency, the Chairman of the SEC, and the Secretary of Housing and Urban Development. I think there is a constitutional question about whether a Secretary can have his actions reviewed by any person other than the President.

Even if the board is constitutional, why is the Chair of the FDIC not a member? After all, the FDIC has the most experience of any Federal agency in buying and selling bank assets. It also is concerned about resolving bank problems with the least cost to the taxpayers.

Regardless of who sits on the board, we will be setting a bad precedent by having heads of agencies oversee our Cabinet Secretaries.

Finally, the oversight board's authorities are not well defined, so it is not clear what happens if the oversight board disagrees with the Treasury Secretary's actions. Can it prevent him from acting? Will disagreements result in litigation? Such bureaucratic infighting could very well undermine the effectiveness of the program, to the extent it can be effective at all.

The bill also establishes a Congressional Oversight Panel, whose members will be selected by the leaders of the House and Senate. The panel is charged with providing reports on the program, the effectiveness of foreclosure mitigation efforts, and the state of our financial regulatory system.

This is work the Senate Banking Committee and House Financial Services Committee should be doing.

The bill also provides for oversight of the program by the Comptroller General, establishes an Office of the Special Inspector General for the program, and subjects the Secretary's actions to judicial review.

While I think it is important to oversee this new entity's activities, this hodgepodge of authority is likely to hamper the program's effectiveness as it struggles to satisfy redundant and time-consuming requests for information.

These oversight bodies might not check the Secretary's authority, but they will ensure that this program generates lots of paper. More importantly, they do nothing to address the fundamental flaws with this plan.

The Secretary is required to issue regulations to address conflicts of interest. Interestingly, the Secretary may start buying assets before these rules are put into place. This is a loophole that could have serious long-term consequences for the program.

The bill does not require that taxpayer losses be repaid by its beneficiaries. It only directs the President to present a legislative proposal to recoup such losses from the financial services industry.

This is something that the President could do even without this legislation. Furthermore, there is no guarantee that the beneficiaries of the program will pay.

Indeed, it is likely that companies that did not participate in the program would end up covering its costs.

The bill would grant the SEC the authority to suspend mark-to-market accounting, establishing a dangerous precedent that could lead to the politicization of our accounting standards, something I have fought for years.

The newest addition to the bill is a precipitous increase in the deposit insurance amount from $100,000 to $250,000. We are about to more than double the exposure of the already depleted deposit insurance fund, and by extension, the American taxpayer, on a whim.

I will remind my colleagues that the track record for overnight increases in deposit insurance is not pretty. In 1980, Congress increased deposit insurance coverage for all accounts from $40,000 to $100,000 without the benefit of hearings or open discussion.

At that time, proponents argued such a change was necessary to stabilize the banking industry. What followed was a massive bailout of the savings and loan industry to the tune of well over $100 billion.

This time around, we are proposing a 150 percent increase when the deposit insurance fund is already stressed and in need of recapitalization.

At a time the FDIC's problem bank list is growing and more failures are anticipated, this higher deposit insurance coverage will increase the FDIC's expected payments for failed insured depositories. Those costs, which would ordinarily be passed on to the banking system in the form of higher premiums, will instead be placed directly on taxpayers.

Let's also be realistic about this. To the extent this measure is intended to address the concerns of those who handle large transaction accounts, such as corporate treasury deposits, those people are not going to be comforted by additional coverage levels.

If they believe a bank is in trouble, they will withdraw their money because deposit insurance does not increase confidence in a failing institution.

Let's also be clear about what this means for taxpayers.

If, on the front end, the $700 billion bailout is not enough to shore things up, rest assured, there will now be more insurance on the back end should banks begin to fail. The American taxpayer will pay, both coming and going.

The bill does do some good things, however. It permits the Federal Reserve to pay interest on reserves, which will improve its ability to conduct monetary policy and serve as a lender of last resort.

The bill does marginally increase the availability of the HOPE for Homeowners program and requires the Secretary to implement a plan to assist homeowners to the extent it acquires mortgages or other assets backed by mortgages.

While I generally do not support bailing out corporations or individuals, if we are going to get into the bailout business, then funds should be directed to individuals as well. The provisions in this bill for individual homeowners, however, are inconsequential compared to the $700 billion going to Wall Street.

As I said, I am no advocate of bailouts. I voted against the Chrysler bailout. I can not say I would have supported a bailout in this instance, but I can say the chances would have been much greater if the underlying plan had been subjected to greater scrutiny and examination. That said, I agree that we need to do something to address the current liquidity crisis in the marketplace.

My greatest concern is that we have not spent any time determining whether we have chosen the best response. There are many well informed people who argue that we have not.

In fact, just this morning, a Nobel prize winning economist indicated that using a reverse auction program to buy distressed assets from financial institutions was not going to be enough to ''revive the operations of the banks.''

I am not sure whether he is right or wrong. I am also not certain whether the Secretary is right or wrong. To the extent other options exist, I believe we failed the American people greatly in not examining them.

Many around here are finding comfort in the notion that ''something is better than nothing.'' I believe that is a false choice. The choice we faced was between pursuing an informed response or panic.

Unfortunately, we chose panic and are now about to spend $700 billion on something we have not examined closely. Yes, in the end, we will have ''done

something.'' At the same time, however, we will have done nothing to determine whether it will accomplish anything at all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I have a unanimous consent that has been cleared on both sides. I ask unanimous consent that an additional 30 minutes be allocated for debate with respect to H.R. 1424, equally divided and controlled between the leaders or their designees, and that the debate with respect to the House message on H.R. 2095 be delayed accordingly, and that any other provisions remain in effect.

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

Mr. DODD. I yield 5 minutes to Senator NELSON of Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Madam President, the things that have been added to this bill such as the FDIC provisions as well as the energy tax extenders and other tax extenders that I have already voted in favor of, certainly I support them, but the underlying bill rewards the banks and leaves the little person with the short end of the stick, and that is not right. This plan rewards the investment banks that ran us into the ground and it hardly does anything to help the homeowners who are facing foreclosure.

If, under this bill, the financial institutions participate in the Treasury's program, they should accept reasonable limits on executive compensation, but under the bill they don't. The limits on executive compensation are left to the Treasury Secretary's discretion. Some CEOs who caused this crisis in the first place will benefit from this bailout and will also walk away with golden parachutes. That is not right. This creates a moral hazard the U.S. Government will undertake.

This bill sends a message to Wall Street that if they play fast and loose in the name of short-term profits, the Government will actually make up for their losses. And the bill does very little to help individual homeowners. Until we stabilize the housing market, which is the underlying ability to restructure the economy from this crisis—until we stabilize the housing market, and until we stem the record number of foreclosures, our market simply is not going to improve. While this bill authorizes the Treasury to develop and carry out a plan, it does not require financial institutions participating in the program to modify or refinance any loan. It only requires the Treasury to encourage loan modifications. Voluntary refinancing efforts will not solve our foreclosure crisis. We should mandate these efforts. We should start by requiring Fannie and Freddie to refinance the mortgages they hold on their books.

Furthermore, I think this bill should do more to investigate the business practices of major credit rating agencies. They fostered the enormous growth of the mortgage-backed securities. They gave securities, mainly consisting of subprime mortgages, the gold standard or the triple A rating. That rating gave investors the confidence that they were making safe investments. Without that triple A rating, insurance companies and pension funds and other investors would not have bought those products.

So I am calling for an investigation to probe the business practices of those agencies. Investors relied on and trusted those credit ratings, and the public deserves to know how these rating agencies concluded that such risky investments could receive such high credit ratings.

I could say a lot about this, but let me just say that the bottom line is, ultimately, this bill forces taxpayers to bail out investment banks that caused the crisis in the first place, and it does nothing to address the real problem, which is home foreclosures and a resuscitation of the housing market. Until we stop the record level of foreclosures, this crisis is going to continue to worsen, whether we pass this bill or not.

For these reasons, I oppose this bill. I think Congress can do better, and I think Congress can come up with a better, more targeted solution to this complex crisis.

It saddens me that I would oppose so many of my colleagues who have offered very cogent reasons. It is true we have to do something, but this particular legislation is not the right solution.

I yield the floor.

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

Mr. GREGG. Madam President, I understand we have some time on our side. I ask unanimous consent that the Senator from South Carolina be recognized for 7 minutes, the Senator from Florida be recognized for 7 minutes, and that I be recognized for the remainder of the time, and that obviously we would go back and forth.

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

The Senator from South Carolina is recognized.

Mr. GRAHAM. Madam President, before we get too far into explaining the problems we face with this bill, I think we need to acknowledge the hard work on behalf of those who have brought us to this point. We know it is not perfect. The chairman knows it is not perfect, but I think he has done the country a great service. To the Senators who have negotiated this with their House colleagues, to the staff who has been working night and day, from my point of view, you have stepped to the plate and you have done the country a great service.

Do more, we will. Make no mistake about it. To those who wonder: Will more follow? Yes. There will be more corrective action following in the Congress. Please understand, after we take this decisive action, there will be more troubles lying ahead for America. But we have two choices as far as I am concerned: A bad choice we all recognize, and a catastrophic choice if we do nothing.

Now, there are a lot of people getting phone calls. I am a king of the phone calls. I have been involved in immigration, Gang of 14, you name it. People have called my office, and you are always welcome to call and I will listen to what you have to say. But the people are against this proposal. Who are the people? That is the first thing you have to decide as a Member of the Senate. Whom do you represent?

Do you represent every corner of society: Republicans, Democrats, Independents, libertarians, and vegetarians?

One thing I have found is that a phone call from mad people helps you only so much. There will always be people calling my office telling me what I can't do. I think it is up to me to have a little broader view of what to do.

I challenge you to come to South Carolina and walk up and down Main Street and not find concern on the faces of people in business. I challenge you to go to retirement communities in South Carolina and not see fear in the faces of people who depend on their 401(k) plans for their retirement. I have never seen anything like it.

This is not about investment banks; this is about the ability of Sonic Drive-in to expand their franchise—a very big business—but, more importantly, it is about the plumber who can't make payroll because he can't get credit. It is about the lady who owns the diner, second-generation owner in Greenville who wants to expand and can't get money. It is about people trying to buy a car and they can't buy the car, and the dealerships in South Carolina are about to fold. It is about you—the average American—soon, if we don't act, being unable to exercise your hopes and dreams because you will not be able to borrow money.

Borrowing money responsibly is the heart and soul of a free market economy. The reason we are here today is people have borrowed money irresponsibly, and all of us are to blame. But if this was about an investment bank and a few CEOs, I don't think 70 Senators would vote for this legislation.

This is about something more fundamental. This is about a problem that started and has infiltrated our economy to the point that if we can't muster the political courage to listen to the phone calls and act decisively and tell people who are mad: I am sorry, there has to be a solution even if you don't agree, then average, everyday people are going to lose everything they have worked for throughout their life. People are not going to be able to send their kids to school and small businesses and big businesses in this country are going to fold next week. I said next week.

If you told me that Wachovia Bank, one of the largest banks in America, would be sold at 10 cents on the dollar, I would have said I don't think that can happen. But I would have been wrong. It is happening, and it will continue to happen until we find a solution. This proposal, to those who crafted it, you have done a very good job after having been dealt a very difficult hand. It allows intervention in a way that will protect the taxpayer.

To those who say that $700 billion of taxpayer money will be spent and it is gone, you don't know what you are talking about. You are scaring people. That is absolutely not true. I am convinced we are going to get most of the money back, if not all of it back, by the way we have crafted this proposal. But I am equally convinced if we do nothing, we are headed to recession, maybe a depression. And you think it costs a lot now. Just do nothing and see what it costs. Nobody wants to be in this spot, but if you don't want to be in these spots, don't run for office.

So to the people of South Carolina, on Main Street, to the car dealerships, to the small business enterprises, to the manufacturers, to the retired communities, to those with whom I have met over the last day or so, I have your message too. I have gotten the phone call, but I have also gotten your message. At the end of the day, I have to rely upon what good sense God may have given me, and sometimes I doubt how much sense I have. A lot of people obviously doubt it because they call me a lot. But I am convinced a lot of smart people are telling me things that I can visualize and see with my own eyes; that it is no longer about academia.

I have been home. I have seen people not be able to get loans to make payroll.

I know what is going to happen if I don't act, if I don't take a risk. If I am not willing to take a political risk, I know what happens to people I represent in large numbers. They are going to lose a lot more than I will lose.

We can stand replacing a few Senators. We cannot stand being unable to borrow money at the most basic level. This is not about an investment bank. This is about banks, small and large banks, and lending institutions that are locked down and cannot loan money. This is about the availability of credit that is going to be so high that no average working person is going to be able to borrow a dime. This is about Main Street. This is about the people I grew up with, and I didn't grow up on Wall Street.

I am the first person to go to college in my family. My dad owned a liquor store. Everything I know about politics I learned in the liquor store, a pretty good place to learn from. We borrowed money to make inventory. We owned a restaurant right next door. My mom worked 18 hours a day. I know what it is like to see my parents work hard and cannot afford to get sick because there is no money coming in.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. I end with this thought: I know this is not a perfect bill, and I know this is a bad choice. But I also know from my common sense and my life experiences that I need to act and I need to act now, and I will.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, one quick thought. We are all entitled to our opinions. Pat Moynihan used to say everyone is entitled to their own opinions but not to their own facts.

As I listened to my friend from Florida, Senator NELSON, talk about the executive compensation section of this bill, I must respond.

As to this legislation, section 111, negotiated by Senator MAX BAUCUS, myself, and others, let me be very clear. When Treasury buys assets directly, the institution shall observe standards limiting incentives allowing clawback and prohibiting golden parachutes. When the Treasury buys assets at auction, an institution that has sold more than $300 million in assets is subject to additional taxes, including a 20-percent excise tax on golden parachute payments triggered by events other than retirement. And also we eliminated the deduction for compensation above $500,000, and we prohibit golden parachutes at other certain institutions—anything but mild. It is the first time ever in the history of the Congress that we are actually going to pass legislation dealing with golden parachutes. More will be done, but this bill does take very concrete, specific actions in that regard.

Again, you are entitled to your own opinions but not your own facts.

I yield 5 minutes to Senator KERRY of Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I am still trying to process the statement of my good friend, Senator GRAHAM, about everything he learned in the liquor store. I know him well enough to know he learned a lot more than that, and he practices it well. He promised me to sit down and define precisely what he did learn.

I listened carefully to a lot of our colleagues. Obviously, there is an extraordinary amount of anger here, and that anger runs deep all across the country, and it ought to run deep. It is hard to convey to some of our fellow citizens the degree to which a lot of us share that anger.

There is a stunning trail here of lack of accountability, of arrogance in the marketplace that literally built a kind of Ponzi scheme, a house of cards, out of greed. There is a stunning trail of ignored advice to people in positions of responsibility who could have done things. And there is a shocking trail of regulators who are in position, who have the authority, and who didn't use that authority. All of this we know as we come here tonight.

But the fact is, there are bigger stakes, and none of us has the luxury of standing around here sort of being angry and being frustrated. The truth is there is the potential of our financial system literally collapsing. That is not because Wall Street needs to be picked up and ''bailed out.'' It is because the liquidity crisis is preventing every-day businesses, community banks in local communities, small businesses that need to have working capital to make the purchase of the orders they need to fill. Everything is frozen. People are losing their earnest money on homes because the banks are not fulfilling the obligation. They are scared to lend. Cars are not being sold. It runs all the way down into the economy.

The stark reality is if we don't act tonight, if we don't act immediately, and if we don't act with strength, that whole system can come grinding to a halt and many more people are going to be hurt to a far greater degree—savings accounts wiped out, retirement accounts wiped out, the ability to be able to retire when they expect it, sending kids to college, paying off college loans—a whole host of things.

It is ugly that we are here. This is a distasteful vote. None of us likes this vote, but the fact is we have a responsibility to put our country, our economy, our security, and our strength ahead of all of those dislikes and do the responsible thing today.

I want to say that I believe the Senate has acted responsibly in this effort on a bipartisan basis. I salute what Senator DODD, Senator BAUCUS, working with us on the Finance Committee, and Senator GREGG, Senator CORKER, and others on the Republican side have done to be responsible to bring the bill together.

The fact is that more than 65 percent of the banks have significantly tightened their lending standards for small businesses. What happens is, one of the reasons it is important to take the FDIC funding up to $250,000 is some people are looking at their banks locally and they are scared, so they move money to another bank which has an impact on the bank that doesn't have any relationship to the real strength of the bank but then weakens it. By raising that amount, we are going to give confidence to community banks, midsize banks, and others.

The banks pay for that insurance, incidentally. It is not exactly a gift from the Government. The insurance is paid for.

Every day approximately 10,000 more homes are going into foreclosure; 5 million homeowners, 1 in 11 homes are either in default or foreclosure. It is the highest level since 1979. And this legislation we are going to pass tonight is going to help keep the mortgage credit flowing to keep people in their homes on a readjusted basis, something many of us have been fighting for some period of time.

In addition, it is going to help families get student loans so they can continue to help their kids get through

college and build the economy in the future.

Let me emphasize, this is not the original plan that was sent to us by the administration.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KERRY. Can I get 1 additional minute?

Mr. DODD. I yield 1 additional minute.

Mr. KERRY. We have strengthened this so significantly through the efforts of Senator DODD and others. There is an executive compensation limitation, contrary to what the Senator from Florida said. Executives are not going to walk away with millions of dollars. There is an effort to help homeowners. There is accountability with an inspector general. There is judicial review. Significantly in this effort the American taxpayer is going to take ownership of these assets at a lower cost. And when the economy comes back, which it will, those assets are going to rise in value, and the American taxpayers are going to recoup this.

I was on the Banking Committee back when we did the 1990 RTC. We saw this happen when we took good loans, separated them from bad loans, and restored confidence in the banking system.

Once again I say to my colleagues, this is not about party, this is not about politics. This is a vote—we don't always get them here—that is absolutely strictly about our country and our future. I hope the Senate is resoundingly going to pass this legislation tonight.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I thank my colleague from Massachusetts for an eloquent statement and a strong one.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. Madam President, I begin by expressing my thanks to Chairman DODD, for his leadership in this effort, his tireless work, and my colleague Senator JUDD GREGG who has done a tremendous job stepping in and also providing a tremendous amount of leadership. I thank both of them for the work they have done to bring us to the point.

I also thank Secretary Paulson. I heard recently people expressing perhaps this is some sort of a power grab by the Secretary of the Treasury. This man will be out of office in 3 months or so after the next President is sworn into office. That is the last thing, I know, on his mind. He has worked tirelessly. He deserves our thanks for his patience, for explaining to some of us at all hours what it is he thinks is necessary we do.

This is important to all Americans, but I also understand their anger and frustration. While I was in Florida over the last 24 hours, I was speaking with an old friend, a schoolteacher. He is not someone who is involved in banking and finance. He said: This bothers me. I pay my bills. All my life, if I borrow money from a bank, nobody bails me out. What is going on? What are we going to do?

We talked about it. I explained to him the difficulties of our financial markets at this point in time. His last words to me were: Go up there and do something. Get something done. He understood, as I hope all Americans will come to understand, this is a very difficult moment, but it is a moment from which we cannot shrink.

How we got here, we could talk about that for hours, and we will. When we come back in January, we have to pick the bones. We have to go over how we got to this position and what we can do to revamp the regulatory scheme to make sure we don't get into a situation such as this again, and do what we can to revamp the regulatory situation which dates back to almost now a century. It needs to be reanalyzed and put in place in a different way.

There is something important this bill mentions too, which is mark to market. I spoke with many local bankers in Florida, small bankers, guys lending money to keep small businesses in business. They were very concerned about the mark-to-market accounting rules. We know that is in the purview of the SEC. Here it is talked about and encouraged to reassert the authority of the SEC to look into it. I know it will be a big difference to small banks struggling in Florida with liquidity to have the capital that every-day Floridians need to make their lives work.

I am also encouraged that we have strong oversight over the Secretary of the Treasury. There is an oversight board. I also understand and agree with Chairman DODD that, in fact, there are strong provisions in this bill that are going to prevent executive compensation abuses that none of us want to see happen as a result of what we are doing today.

The fact is, whether it is floor plans for car dealers, whether it is the car loans for those who would buy the cars, whether it is someone who is there to purchase a house but cannot get the money, we cannot get the housing market going again if there is no liquidity, if there is no credit; whether it is a line of credit for a small business.

I have another anecdote. A small businessman said: I always paid my bills. I was never late with a payment. I go to the bank to exercise my line of credit, and they tell me I can't. He now has to stop his plans. He can't do what he was planning to do in his business to expand it, grow it, buy new equipment, simply because the bank said you have done everything right; we just can't lend you the money because we don't have it ourselves. That is the situation with which we are dealing, providing the safeguards the American people expect us to do.

We have to come back in January to do regulatory reform, to do oversight of what we are doing now, which needs to be done repeatedly, congressional oversight over how this is being implemented, to make sure we provide the American people the confidence and the comfort of knowing that while we got into a real mess and while Wall Street got us into this mess, the fact is this is impacting every-day Americans, this is impacting Floridians of every walk of life.

To fulfill our responsibilities every now and then, a tough vote has to be taken. This is a tough vote. It isn't easy. A lot of people have great angst about it. I understand their angst, and I share their anger. At the same time, we are here to solve problems and get business done, working in a bipartisan manner, coming together.

This is a great country. We are going to come through this crisis, through this moment, and we will be stronger for it. In the meantime, we have to do the right thing. The bill may not be perfect, but the times will not wait for tomorrow. The times will not wait for us to have a perfect bill. We have no choice but to act, and we need to act now.

I encourage my colleagues to support this bill. We need a strong bipartisan vote to send a message to the House of Representatives, to send a message to America, that the Senate is going to stand strong and do the right thing for the American people.

I yield back my time.

The PRESIDING OFFICER. Who seeks time?

Mr. DODD. Madam President, I yield to my distinguished friend and colleague from California 5 minutes.

Mrs. BOXER. Madam President, I say thank you to the Americans whose outrage at the administration's original blank check bailout stopped that arrogant proposal in its tracks. We were all stunned. They and their allies were telling us the fundamentals of our economy were strong 2 weeks before we heard it was crashing. They had failed to use the powers Congress had given them to stop bad mortgages. Where was the oversight in their proposal? Where was the taxpayer equity? Where was the control over CEO pay? The answer back from Mr. Paulson on a phone call with dozens of Senators was: There would be no restrictions on this bailout. Well, count me out.

A far better plan then emerged from the Banking Committees, but for me it did not do enough.

I wrote to Mr. Paulson urging smaller installments; reforms. I pushed for direct investments or loans rather than toxic acid purchases. We didn't get it. But in this Senate legislation, we did get more FDIC protection for bank depositors, which is crucial to deterring an epidemic of bank closures, something that was at the heart of the Great Depression.

Broader FDIC protection will help small businesses that need certainty in meeting their payrolls. That is where working families come in. Most working families today can't miss even one

paycheck, given our high cost of living. We need to retain and create jobs, which is why I support another change in this legislation—$16 billion in incentives for job-producing renewable energy businesses. Plus, there are billions more in tax relief for businesses and individuals. We lost 84,000 jobs in August alone. We must act.

Another provision, originally written by Senators Wellstone and DOMENICI, will keep many families from going bankrupt by ensuring that mental health illness will be covered fairly. So this legislation before us is much improved, and I hope it will pass.

I wish to share what California treasurer Bill Lockyer says will happen if we do not act, but, first, Madam President, I ask unanimous consent to have printed in the RECORD a letter from Governor Schwarzenegger.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 1, 2008.

DEAR MEMBERS OF THE CALIFORNIA CONGRESSIONAL DELEGATION: It's now very clear that the financial crisis on Wall Street is affecting California—its businesses, its citizens' daily lives and its state government's ability to obtain financing to pay for critical services.

This is how serious the situation is: our State Treasurer warns that the credit market has already frozen up to the point that it chills even the State of California's ability to meet its short-term cash flow needs. Additionally, without immediate action from you and your colleagues in Congress, California will be unable to sell voter-approved bonds for the highway, school, housing and water construction projects that our state is relying on to help carry us through this difficult economy. The state of our already-slow economy makes the financial situation even more urgent.

It is daunting that California, the eighth-largest economy in the world, cannot obtain financing in the normal course of its business to bridge our annual lag between expenditures and revenues. This means California may soon be forced to delay payments for critical services, such as teachers, law enforcement and nursing homes. The same thing would happen to California's counties and cities. That is, unless Congress acts quickly to restore confidence in our financial system.

I am writing to urge you to vote in favor of the Emergency Economic Stabilization Act. This plan is critical to the well-being of every community in California, and across the nation. Swift action in Congress is needed to restore confidence in our financial system.

Let's be clear, this plan is not a ''bailout'' for Wall Street. To the contrary, the plan is about protecting Main Street.

We are currently witnessing the initial consequences of depositors and investors withdrawing assets from a financial system in which they have lost confidence and putting them in FDIC-insured accounts and federal obligations. That means there's little money for normal commerce and what money is available is too costly. This dramatically reduces economic activity, translating into fewer jobs, lower wages, reduced savings and threatened pensions. If the stabilization plan fails, these outcomes will materialize in scale.

California's businesses, both large and small, also face the prospect that banks will not be able to renew loans. It goes without saying that, when people and companies can't get the money to buy cars, inventory goods, plant crops, expand business and go to school, economic activity slows down, leading, to job losses, wage reductions, savings declines and pension failures all along Main Street, California.

The situation is urgent. The crisis we face demands swift action and bipartisan leadership. Congress must pass this economic stability plan without further delay.

Sincerely,

ARNOLD SCHWARZENEGGER.

Mrs. BOXER. Madam President, our treasurer says we would not be able to sell voter-approved highway, school, and water bonds that are desperately needed for California's economy and for the creation of good-paying new jobs. He says they would not be able to get the credit.

California also desperately needs access to short-term borrowing from banks to finance our budget.

Now, how did we get here? There are a lot of people saying don't point fingers and don't talk about it. I am going to talk about it. It was deregulation fever. That is my opinion. It started in the 1980s, with lawmakers interfering with Federal regulators over the savings and loan crisis. It continued in 1995, when the Republicans took over and they wanted to place a moratorium on all new regulations.

That effort failed, but their success came in 1999, when Senator Phil Gramm and his allies tore down the firewalls that separated various financial institutions. And then the deregulation of the energy business. You all remember Enron and those traders—that is T-R-A-D-E-R-S—saying: Well, grandma can't pay the bill, isn't it funny?

Phil Gramm recently said we are a nation of whiners. I say his legacy is a disaster.

I believe, and I hope, this package will do what is needed to restore trust in the short term. For the long term, we need regulatory reform and change that will bring us job-producing investments in America, not in foreign lands. Remember, $10 billion a month is going to Iraq. We need those dollars here at home.

So I look forward to that work on behalf of my great State of California and this great Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. If I could engage the chairman in a colloquy, as I understand it, we have about 15 minutes left on our side under the bill.

The PRESIDING OFFICER. There is 14 minutes remaining on the minority side.

Mr. GREGG. Fourteen minutes. How much time remains on the majority side?

The PRESIDING OFFICER. Seven minutes on the majority side.

Mr. GREGG. Then I understand we are going to Amtrak for half an hour?

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. If I may inquire of my good friend and colleague who has been very generous, I may ask for a little generosity in terms of time. I am running into a crunch, and I have a couple Members who may wish to speak for a couple minutes. But let me get to that point.

Mr. GREGG. I thank the chair.

The PRESIDING OFFICER (Mr. CASEY). The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, we are here at a very significant time relative to the Congress's responsibility to act and try to avoid a significant crisis for our Nation. I listened to Ranking Member SHELBY, former Chairman SHELBY, whom I have the most tremendous respect for. And you know, when you think about how we got here, had this Nation listened to RICHARD SHELBY, we probably wouldn't be here. If there had been adequate capital formation of these institutions, if there had been adequate oversight, if there had been proper underwriting, we wouldn't be here.

Unfortunately, we are here, and the hand we have been dealt is a pretty bad hand, and the options are few. Our situation as a Congress is this: If we fail to act, we will fail the Nation. We will fail our constituents, we will fail the people on Main Street, and we will fail future generations.

The problem has been outlined here eloquently by a number of speakers. The Senator from Massachusetts, the Senator from South Carolina, and the Senator from Florida, since I have been on the floor. I know earlier today a number of Members spoke brilliantly about the problem. But let me simply restate it because we need to understand it clearly.

This isn't so much about the problem of Wall Street. This is about the problem that is coming at Main Street. America runs on credit—credit that is easily available and reasonably priced. There are very few Americans who haven't borrowed money to buy their car, to send their children to college or to expand their home. There are very few small businesses in this Nation—whether it is a restaurant on Main Street or a shoe store on Main Street or the local person who is taking a risk in the software industry—very few businesses in this Nation, small, medium or large but especially small that don't depend on their line of credit from the bank which finances them through difficult times and allows them to buy the things they use to resell. What we are seeing today is a closing down of that credit so the person on Main Street would not be able to buy a car, would not be able to send their child to college, and the people who pay them would not be able to finance their payroll, would not be able to buy the inventory they need in order to be financially successful, and the contraction feeds on itself and grows and expands.

It has been described here a number of times by the example of a four- or

eight-lane highway—in New Hampshire, it would be a four-lane highway—where you had a crash that blocked the highway. And behind that crash you had trucks carrying the checks that pay the people who work in town; you have trucks carrying the checks that maintain the hospitals, maintain the school system, allow the kids in the town to go to college, and allow the city to pick up the garbage, pave the streets, patrol the streets, and protect the people against fire. Those trucks are all stuck in that traffic jam and they can't move. What the Federal Government is suggesting we do, what the Treasury Department has suggested we do, and what we have worked out as a program to do is to come in, as a government, and take that crash off the highway so commerce can occur again in a reasonable manner.

Now, we have heard a lot about the cost of this program. There has been an immense amount of misrepresentation and theater and hyperbole and I am afraid some people in our society have decided to demagogue this issue for their own personal aggrandizement and benefit. They say it is $700 billion thrown at Wall Street to protect the fat cats of Wall Street. Well, that simply is inaccurate. We are going to put $700 billion into the process, but with that $700 billion we are going to buy assets, assets that have real value.

We are not throwing it out the window. What we are going to do is take nonperforming loans, mortgage-backed securities off the books of banks and allow those banks to replace those loans with assets they can lend against. What does that do? It creates credit. It allows those banks to start lending again. They can't lend today because they have, as their base, nonperforming assets. They can't lend against those assets. Their capital isn't adequate.

So we are going to take those assets, and we are going to hold them as a Federal government. We are going to take them at a fairly big discount from their face value. If it is a mortgage note, we might take it at 20 or 30 percent below what the original note was issued at. Then we are going to work with the people who have those mortgages, those people in homes who have those mortgages, if they are the principal residents of those homes and they have a job, and we are going to try to make it so there is no foreclosure against them, so they can stay in their home and so they can pay that mortgage. By doing that, we are going to make those mortgages valuable again. As the economy starts to recover, we are going to take those mortgages and we will resell them into the market or hold them until they are paid off. In either instance, it is very likely the taxpayers' dollars will be recovered; that there will be no loss to the taxpayer.

So when we hear these people in the public market, these talking heads, so to say, claim we are about to spend $700 billion to benefit Wall Street, they are totally inaccurate. Actually, what we are doing is we are trying to spend money to free up credit on Main Street so people can keep their jobs and at the same time do it in a way that protects the taxpayers of America by getting value back.

Now, after the original proposal came up here from the Treasury, at the request of the Congress, through the negotiation process with House and Senate Democrats and House and Senate Republicans at the table, we also did a few other things which I think were very good.

No. 1, we said any revenues we get from this—and we are going to get a lot of revenues. If we spend $700 billion, we may get $600 billion back, maybe $700 billion or we may get $800 billion back. All those revenues will go to reduce the Federal debt. It is not going to go to new programs. It goes to reduce the Federal debt. We intend to protect the taxpayer.

In addition, we said that if somebody participates in this program, we are not going to allow them to get a windfall. We are going to put a strict limit on their ability to get excess compensation if they are senior members of the company that participates. We are going to limit golden parachutes. We are going to make it clear that there can't be that type of gaming of the system.

In addition, we are going to take something called warrants on behalf of the American taxpayer. That says if there is an upside—beyond just getting the money back from the notes we take—if there is an upside to that company, we may benefit in it. If we buy the nonperforming debt off the books of the company at too high a price and there is a downside, the company will have to give us some equity to cover that. So the taxpayer, again, is protected, and we don't have excessive compensation.

As I mentioned earlier, we put in language, under the leadership of the chairman of the committee, Senator DODD, which we said that for people in their homes the stress will be to keep them in their homes. The prejudice will be to keep them in their homes. We don't want foreclosures.

Equally importantly, we put in place tremendous regulatory oversight so there will be absolute transparency and so the American people can look at what is happening and know what is happening and know what is being done. It will be reviewed. We have an oversight board headed up by the Federal Reserve Chairman, we have an oversight board for the Congress, and we have a special prosecutor and a special GAO team. In addition, we have a number of reports which are necessary to go forward.

Now, if we do all this, will it solve the problem? Is the economy suddenly going to turn around? No. No, it is not. We are in a very difficult economic time. There will be other failures, there is no question about it. There will be financial failures, and the economy will probably continue to slow. But if we fail to do this, we will confront catastrophic events which will affect every American in the area of their income and their savings. People will lose their jobs if we don't do this, literally hundreds of thousands of people, potentially. Tens of thousands anyway. Their assets will be reduced and their ability to have a normal commercial life on Main Street, to have a normal activity, will be dramatically harmed.

We saw a little glimmer of what is out there if we fail to act on Monday, when the stock market fell 777 points, which represented losing $1.2 trillion of American assets. That meant pension funds, 401(k)s, IRAs, and things people depend on were dramatically reduced. People close to retirement were shocked by that, and all of us were stunned. It was a statement by the markets of what they think would happen if we do not act and act aggressively and boldly, as this proposal is both aggressive and bold.

Some will say: Well, the markets have come back so it doesn't matter. Look at that. The markets have come back because they presume the Congress will act in a commonsense way and that we will actually pass this piece of legislation.

There is no question but that this is a time that tries the political soul of this institution. A ''yes'' vote here, as the Senator from Connecticut has mentioned a number of times, doesn't get you a whole lot of accolades anywhere. But there are times when, as Members of this body, we have a responsibility to act in a mature, thoughtful, and appropriate way, with our fundamental purpose being to avert a clear and present crisis that is going to confront this Nation. This is one of those times. To do nothing would neither be logical nor responsible. So we need to act. We need to pass this proposal.

I wish I could say that when we pass this the Nation will suddenly fire up and be reenergized and we will not see a further slowdown. That is not going to happen. But if we fail to pass this bill, I am fairly confident, as has been said by a number of people, including both Presidential candidates, the results will be a great period of trauma for our Nation, especially for everyday Americans who do not deserve it. They don't deserve it. That is why it is our responsibility to act at this time.

This is the vehicle before us. This is the opportunity that presents itself, to take action to try to mitigate what will be an overwhelmingly damaging event. Therefore, we should be voting for this piece of legislation.

I reserve the remainder of my time.

Mr. DODD. I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I don't think 5 minutes would possibly be enough time for me to explain all

the things I would like to say. I am sure I could spend an hour talking about credit default swaps. I am sure I could spend 2 days talking about the lack of transparency in the financial markets. I am sure I could spend a lot of time explaining what I think is the right thing we should do to put as much liquidity into the markets as possible. So I will try to be succinct.

I came to the Senate knowing what it is like to take a tough vote. To make a decision that is right for the American public. It's most important to do the right thing. I also know what it is like to see millions of dollars in the stock market go away and watch a stock bubble burst. I also know what it is like to stand on the Senate floor, as I did 3 years ago, when someone tried to cram legislation in the Defense authorization bill to open up drilling in the Arctic Wildlife Refuge, and I said then that it was the equivalent to legislative blackmail.

I am not going to vote for this legislation tonight based on whether someone crams in tax credits, for which I actually have fought so hard. I am going to render my decision based on what I think is important for the American people.

I think there is something that is missing in our discussion. I applaud Chairman DODD who has worked hard on the Banking Committee. I applaud my colleague who just spoke, who spoke eloquently about the need to do something. But the problem with the legislation before us is that it is choosing winners and losers in corporate America. It is inserting the Federal Government in a role in which they decide, along with the private sector, exactly how funds should be allocated.

I am for the full faith and credit of the U.S. Government backing these institutions. What I am not for is turning the keys to the Treasury over to the private sector.

There is much we could agree on tonight. We could agree on the new changes to the FDIC rule. We could agree on mark to market accounting changes and to bringing better marketing and accountability to the system. We could agree on the uptick rule and other predictability measures that help the market understand that there is a broad commitment by this institution to do something to help stabilize the markets.

But I am very concerned about the ''pick here, pick there'' approach that has transpired in the last several weeks. I ask you to just think of one institution, in my State, Washington Mutual—which I would not necessarily applaud for its subprime lending rates or for its use and backing of credit default swaps, but I would ask you to consider the fact that as that institution was forced into sale by this Government, who were the winners and losers in that? J.P. Morgan got the assets of that institution and benefitted from that. In fact, J.P. Morgan predicted on a conference call the night they acquired Washington Mutual that after 1 year with their investment, they would have an over $500 million return on that investment. That is 27-percent returned in 1 year.

The FDIC got some money out of that, too. And then to say nothing about the over 60,000 shareholders who were wiped out.

My complaint is: where is J.P. Morgan who should be standing up for the retirement plans, the deferred compensation plans, and other packages that the employees at that company were due?

It is very convenient for us to now choose that we are going to add to J.P. Morgan's bottom line. In fact, if we would instead do what I am suggesting, we could have an equity proposal instead of having TARP, the Troubled Asset Relief Program, as the roof over America. Instead, we could have an equity program where the United States would leverage our capital and spur 10 to 12 times the private sector investment at the same time, our Nation would be better funded, better prepared, for the onslaught of trouble that is still going to remain after we pass this legislation.

I could not even get my amendment to be considered. So, so much for the transparency of the Senate.

I am going to continue to work for this idea, for equity, for a more leveraged position, and that we do the traditional role that Government has done time and time again: to use our equity to leverage the private sector to secure our economy.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, the Senator from Illinois wishes to speak. I ask for 5 minutes.

The PRESIDING OFFICER. The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, 13 days ago I sat in on a meeting just a few feet away from this Chamber. At this meeting was the Chairman of the Federal Reserve and the Secretary of the Treasury. There were about 12 of us in the room: the leadership from the House and Senate, Democrats and Republicans. I listened as they told us in very serious tones that unless we did something, there would be a meltdown of the American economy and the global economy. And unless we acted quickly, we could face a collapse of our economy, businesses would fail, people would lose their jobs, they would lose their savings if we did not act.

That was a story told to 12 of us at the table who had heard a lot of things as politicians, but we never heard anything like that before. Of course, it was not told to us in the context of something we had never heard or considered. With all of the problems of Fannie Mae and Freddie Mac and Lehman Brothers and Bear Stearns and AIG, we knew there was a problem with the economy. We didn't know it was that bad.

Obviously, the first question is, How did we reach this point, this terrible crisis? I think it is very clear how we reached it. We reached it with reckless deregulation of the credit industry. We stepped aside and allowed these institutions to operate without oversight, without transparency, without accountability, and greed took over. People were making millions of dollars overnight, and they pushed the Government aside and said: Don't get in our way. There is money to be made.

Of course, we have this because of the reckless behavior of those on Wall Street who took advantage of the situation and a lot of innocent people. I can recall offering amendments on this floor to stop predatory lending practices like the subprime mortgage market generated. I can recall debating the high priest of deregulation, Phil Gramm of Texas, who warned that if DURBIN's amendment would pass it would destroy the subprime mortgage market. The year was 2001.

Wouldn't it have been better for America had my amendment passed and that mortgage market come to an end? I lost that amendment on the floor of the Senate by a vote of 50 to 49. The subprime mortgage market went forward, bringing us to this crisis today.

The bill produced by this administration, by Treasury Secretary Paulson, a three-page bill, easily read, was a stunning grab at power. It said there would be no accountability, that the actions of the Treasury Secretary in allocating $700 billion of taxpayer money could not be held accountable in any court in this land or by any administrative agency, and that any rules that were drawn up for his conduct would not be subject to the normal public approval process. It was an incredible grab for power.

We knew there was a crisis, but this was not the answer. CHRIS DODD of Connecticut and JUDD GREGG of New Hampshire went to work with their counterparts in the House, Democrats and Republicans, and made significant changes in this bill, changes that protect taxpayers on the upside so when the companies get well, the money will come back to us as it should; to protect, as well, that taxpayers will not pay for the million-dollar bonuses and golden parachutes of the CEOs who created this mess.

If we have to buy their mistakes, for goodness' sake, do we have to buy them a gold watch when they leave? No. In this bill we will not. We provide the oversight to make sure that taxpayer dollars are watched closely. We don't want any single-bid, Halliburton operations. We want to make sure this money is well spent by professionals who are held accountable.

I wish I didn't have to vote for this proposal. I can think of where $700 billion could be better spent in America today for families across Illinois and across this Nation. I would certainly be coming to the aid of those who are facing foreclosure, 10,000 families a day

who were lured into the tricks and traps of these rotten mortgages and now stand to lose their homes and everything they ever saved. There is not a penny in this bill for the kind of help they need.

We talked about it, but when it came to the bankruptcy provision that could have provided it, guess who overwhelmed us. The banks and the mortgage lenders. They had the last word and took out that bankruptcy provision.

I thank Chairman DODD for his efforts in including it, and for a lot of others, as well, on the House side. We didn't include it.

I wish I didn't have to vote for this bill, but if we fail to act and this economy clearly does go into a meltdown, we cannot say that in Congress we have met our responsibility by going home empty-handed.

I urge my colleagues to support this legislation.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. How much time is remaining on our side?

The PRESIDING OFFICER. There remains 1 minute 16 seconds.

Mrs. HUTCHISON. Mr. President, I would like to reserve that time and put it into the next bill coming forward, the Amtrak bill, so we would then have 16 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority has 4 minutes remaining.

Mr. DODD. Mr. President, I yield 3 minutes to my colleague and friend from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I understand I have 3 minutes.

The PRESIDING OFFICER. That is correct.

Mrs. FEINSTEIN. Mr. President, they say Senators have 6-year terms so they can take tough votes when tough votes are called for, so that they can vote for the best interests of their country even sometimes when their constituents do not understand it or may be opposed to it.

I have received 91,000 phone calls and e-mails from California, 85,000 of them opposed to this measure. There is a great deal of confusion out there. People don't understand. What was printed most prominently was the original Paulson proposal, a proposal which gave one man control over $700 billion to dispense as he chose, above the law, with no administrative view or legislative oversight.

This is not that proposal. I thank the chairman of the Banking Committee, both sides of the Banking Committee. It would be one thing if we had a choice, but I do not believe we have a choice. Let me give you an example.

In my State, we have 3.5 million small businesses. We have over 20 million people employed in those small businesses.

Now, some businesses function on cash. Most function on credit. When credit is frozen, they cannot make payroll. And when they cannot make a payroll, they give out pink slips. So you will see, through electrical and plumbing contractors, retail establishments, even grocery stores, computer stores, automobile sales, we are now hearing from people who say they want to buy a home, they cannot get a mortgage; they want to get a car, they cannot get a loan. This is what is beginning to happen.

This is not a give-away. This essentially is a strategic plan to buy assets, both good and bad, to pump liquidity into the market, to be able to free up credit, so that once again the economy can function. The Government will hold these assets. Over time we believe they will make money, and the Government will be the first paid back.

So I think if we do care about the livelihood of our constituents, there is only one vote and it is yes.

This bill is not the bill that was put forward by Secretary Paulson on September 20. His bill was essentially a nonstarter—startling in its unbridled allocation of power to one man: the Secretary of Treasury whom we know now, and to a Secretary of Treasury after January whom we do not know.

It placed this man above the law, above administrative oversight and above congressional action, and essentially gave him $700 billion to do with what he thought best.

This bill didn't fly with virtually anyone who looked at it, particularly constituents, who have called in the tens of thousands of phone calls all across this land.

My office has received over 91,000 calls and e-mails with over 86,000 opposed. The bill before us is not Paulson's 3-page proposal. Rather, it is a bipartisan effort that adds oversight, accountability, assistance to homeowners, executive compensation limits, and other measures to protect taxpayers.

But there still is a lot of misinformation on this bill.

This is not a $700 billion gift for Wall Street.

Rather, the—Federal Government will buy equity in certain assets, both good and bad to pump liquidity into the marketplace and unfreeze credit which is increasingly freezing and unavailable.

Over time, these assets will be sold and the Federal Government will be the first paid back on the investment. The belief is that by doing this the Federal Government will clear much of the bad debt on the books of certain strategic financial institutions, restoring stability, adding liquidity, and unfreezing credit.

Recently, we have seen major U.S. institutions fail: Bear Stearns, Fannie Mae and Freddie Mac, Lehman Brothers, Merrill Lynch, and AIG. And, two retail banks, not investment banks: Washington Mutual and Wachovia. If we do nothing, more institutions will fail.

Now, you may say: What does this mean to me? I work hard, I pay my bills, I pay cash.

Here's what it will mean to you: It will be harder for most Americans to get any credit. Therefore, jobs will be lost.

And we may well face a deep recession.

California has 3.75 million small businesses with an average of 5.6 employees. That adds up to over 20 million jobs.

Some of these businesses are funded with cash, but most are funded with credit. When credit freezes, payrolls cannot be met. And when payrolls cannot be met, pink slips are sent out.

And this will happen to retailers, grocery stores, restaurants, electrical and plumbing contractors, apparel manufacturers, computer and electronics stores, and auto dealerships.

Sales at auto dealerships have fallen dramatically in the past year. Ford sales are down 34 percent, Chrysler sales are down 33 percent, Toyota sales are down 29 percent, and GM sales are down 16 percent.

The list will go on and on.

Importantly, there have now been several improvements to this bill. First, The FDIC insurance rate covering bank deposits has been increased from $100,000 to $250,000. Americans will know that their deposits are secure up to $250,000.

The legislation will provide tax relief to working families.

One example: the Alternative Minimum Tax is a real problem. It was meant to apply only to 200 wealthy people, but it was never adjusted for inflation and it has crept down the income scale to the point where more than 25 million taxpayers today may well have to pay an Alternative Minimum Tax.

In California, 700,000 people paid this tax last year. But 4 million Californians will pay that tax this year unless we take action.

This bill takes that action. For 1 year it will prevent this tax increase.

The Congressional Budget Office has reviewed this bill and concluded that the net cost to taxpayers is ''likely to be substantially less than $700 billion.''

Again, these investments are first in line to be paid back.

It must be remembered that there was a great deal of criticism when the U.S. Government bailed out Mexico in 1996 with $20 billion. The fact is, the money was paid back ahead of time and $600 million in profit was made.

Let me give you the following points. This bill mandates that the Government provide loan modifications for the subprime mortgages it acquires. This will help keep families in homes rather than foreclosing and putting the house on a deteriorating housing market where property values drop and homes are looted. The bill limits executive compensation. It provides strong oversight and accountability, including a financial stability oversight board, a

five-member congressional oversight panel, an inspector general, and a constant presence at Treasury by the Government Accountability Office.

This is the only choice Congress can make.

One can rail against it and vote ''no'' on it, but that is not going to solve the problem. We have one chance, and one chance only, to solve the problem, and it is this bill.

I wish I could write it differently. Others wish they could write it differently, but the fact is that we are faced with this. Again, there is no question this is a tough vote.

But there is no question that this is a vote that I believe has to be made.

CONTRACTING PROCESS

Mr. MENENDEZ. Chairman DODD, with the scale of this undertaking and the volume of assets that will be managed, I want to ensure that the contracting provisions for asset managers under the package lead to the engagement of financially sound institutions that have the best and brightest financial minds.

The package gives the Treasury Secretary broad authority, including the explicit authority to waive certain portions of Federal acquisition regulations when retaining asset managers. Along those lines, I want to ensure that, despite the safeguards that have been provided, the Secretary does not take a narrow approach but, rather, seeks the broadest collection of asset management experts to assist him. Therefore, I ask my colleague from Connecticut, the chairman of the Banking Committee, do you believe that it is the intent of Congress that the contracting process must be as full and open as possible and that the Secretary should consider a broad range of asset managers, including broker-dealers, insurers, and other experts?

Mr. DODD. I absolutely agree with the gentleman from New Jersey. The scale of this undertaking is vast, and the exposure to the taxpayer must be well managed. Therefore, I urge the Secretary to look broadly for the best expertise in assisting him in managing this program.

Mr. MENENDEZ. I thank the Senator.

BIOMASS

Mr. NELSON of Florida. Mr. President, I have been working with Chairman BAUCUS and his staff for the past year on an amendment to the section 45 production tax credit. My amendment modifies the definitions of qualified open-loop and closed-loop biomass facilities to clarify that additional power generation units placed in service at existing qualified facilities are eligible for the production tax credit.

This clarification was necessary to remove an ambiguity as to whether such additional units of power qualify for credit. This ambiguity was inadvertently created by language in the Energy Policy Act of 2005 relating to additional units of power appended to municipal sold waste facilities.

As you know, my concern has been that the failure to clarify that additional units of power do qualify for the credit will discourage taxpayers from expanding existing biomass electricity production facilities and, thus, from producing more renewable biomass electricity.

However, it appears that the language that was adopted by the Senate on September 23 does not achieve the goal of eliminating this ambiguity in all circumstances. Is that your understanding as well?

Mr. BAUCUS. Yes, it is. I understand your concern that the language in the bill we adopted on September 23 could still leave some taxpayers in an ambiguous position with respect to additional units of power added to biomass facilities qualifying for the credit. Let me assure you that my staff and I will continue to work with you to address this matter.

Ms. SNOWE: I want to thank the chairman of the Finance Committee as well as Senator BILL NELSON for their work on addressing the incremental biomass production ambiguity. Clearly, at a time when our Nation's manufacturing industry is besieged by historic energy costs, we must provide the incentives for expanded biomass production. The production tax credit was intended to be provided for companies that expand their production in and beyond 2005, and I believe we must have concise and clear language that these facilities should receive the credit for producing renewable energy in their operations. I look forward to working with Chairman BAUCUS, Ranking Member GRASSLEY, and Senator NELSON to reconcile this inadvertent confusion.

BASIS REPORTING

Mr. BAUCUS. Mr. President, the energy policy in the pending legislation is partially paid for by a proposal that requires brokers to report to their clients and to the IRS the basis of securities that are sold during the year. This provision expands existing information reporting requirements that require brokers to report the sales proceeds of securities that are sold. The IRS estimates that in 2001 the tax gap associated with all capital gains was about $11 billion. Providing this information will reduce burden on axpayers and increase the accuracy of tax returns that are filed.

Mr. GRASSLEY. Senator BAUCUS and I asked the Government Accountability Office to review the accuracy of tax returns that are filed reporting capital gains. The GAO found that as many as 7 million individual taxpayers, or 36 percent, who sold securities in 2001 may have misreported capital gains or losses, and around half of those taxpayers did so because they misreported their basis. This information reporting proposal will reduce errors and help taxpayers to file their returns more accurately.

Mr. BAUCUS. Congress intends that the Treasury Department issue guidance and regulations that will help brokers implement this reporting requirement, including the issue of year-end reclassifications. The existing regulatory authority under Internal Revenue Code section 6045 fully applies to the new basis reporting rules proposed in this legislation.

Mr. GRASSLEY. The Congress further intends that the IRS will exercise its administrative authority to revise forms and take other actions as appropriate to help brokers and taxpayers understand and comply with this new law so that burden is reduced, errors decrease, and compliance is enhanced.

VEHICLE TAX CREDIT

Mr. BAYH. Mr. President, I rise today to seek clarification of an important provision that was included in the tax extenders package that the Senate approved on September 23.

As my good friend knows, the Senate amendment to H.R. 6049 establishes in section 205 a new tax credit for plug-in electric drive vehicles. The credit is for passenger vehicles and light trucks and varies in amount depending on the vehicle's weight and battery capacity. Your leadership has been critical to securing this credit, which I strongly support because it will help reduce America's dependence on foreign oil by giving people incentives to build and purchase advanced, fuel-efficient vehicles.

Indiana has consistently been a key contributor to innovation in vehicle manufacturing. We are proud that our auto manufacturers and suppliers are focused on building the next generation of fuel-efficient vehicles and components. This plug-in electric drive motor vehicle tax credit is essential to help consumers overcome any hesitation to purchase these vehicles and to provide investors with confidence that the Government is committed to the electrification of our Nation's transportation sector.

Section 205 of the Senate-passed amendment to H.R. 6049 describes the vehicles that would qualify for the tax credit. Eligible vehicles include, in part, motor vehicles with at least a 4 kilowatt hour battery used for propulsion, an offboard energy source to recharge the battery, and in the case of passenger vehicles or light trucks of no more than 8,500 pounds, a certificate of conformity under the Clean Air Act.

The bill language does not expressly state whether a van would qualify, but many commercial and government fleets use vans.

The relevant Environmental Protection Agency regulations referred to by the bill, such as 40 C.F.R. 86.082–2, define a van as a ''light-duty truck.'' It would appear that the committee intends that a plug-in electric drive van, meeting the appropriate weight and emission standards, would qualify for the new tax credit for plug-in electric drive motor vehicles. Mr. Chairman, is this analysis of the committee's intent correct?

Mr. BAUCUS. To my good friend from Indiana, the answer is yes. The new tax credit for plug-in electric drive motor vehicles was intended to be, within weight and emission limits, vehicle design neutral. Vans are clearly a subset of light trucks and would be eligible if they meet the weight, energy, and emission criteria under the provision.

ADMINISTRATIVE PROCEDURES ACT REVIEW

Mr. LEAHY. As the Senate considers extraordinary legislation to address the current economic crisis, I believe it is imperative for the RECORD to reflect the intent behind the provisions I worked with Senator DODD to include in this legislation. In an effort to ensure that there is no doubt about what we intended, I would ask the Banking Committee chairman, Senator DODD, whether it is his understanding that our efforts to ensure that any actions taken by the Treasury Secretary, under the authority of this legislation, be reviewable under the Administrative Procedures Act.

Mr. DODD. I would say to the distinguished chairman of the Judiciary Committee that is what we intend.

M. LEAHY. And the provision we have included in section 119 of the Senate's legislation, to ensure that this review is available, the word ''law,'' as it is used, means any State or Federal law, or common law interpreting such State and Federal laws?

Mr. DODD. Yes. The Senator from Vermont is correct. My understanding and intent is that this section would allow for review in the event any action by the Treasury Secretary was in violation of any State or Federal statute, or common law interpreting a statute.

Mr. LEAHY: I thank the Senator. It is not our intent to permit the Treasury Secretary to quash or alter any private right of action on the part of shareholders of entities from which the Secretary purchases assets, nor allow the Secretary to confer immunity from suit any participating financial institution.

Mr. DODD. I would say to the Senator from Vermont that is correct as well.

Mr. LEAHY. And with the savings clause we have added to the legislation, we also intend to prohibit the Treasury Secretary from interfering with or impairing in any way the claims or defenses available to any other person. For example, no person's claims in relation to any assets purchased by the Treasury Secretary under the Truth in Lending Act should be impaired, and no person who has been harmed by the conduct of a financial institution should have their claims affected in any way. Is this the understanding of the Senator from Connecticut as well?

Mr. DODD. It is. That is what we intend.

Mr. LEAHY. And by agreeing with the administration's request to automatically stay on appeal injunctions issued against the Treasury Secretary for actions taken under the authority of this legislation, we have assured that existing waivers of sovereign immunity under the Tucker Act, the Contracts Dispute Act, the Little Tucker Act, the Federal Tort Claims Act, and relevant civil rights laws would apply to the Treasury Department's new responsibilities, just as these laws have applied to the Treasury Department's actions prior to the bailout measure. Is that correct?

Mr. DODD. I say to the chairman of the Judiciary Committee that is what we intend with the savings clause.

Mr. LEAHY. We also included a provision to make sure that mortgagers whose mortgages are purchased by the Treasury maintain all of the claims and defenses they have in relation to those loans, whether pursuant to their contracts, or under State or Federal consumer protection law. It is not our intent to deprive homeowners any recourse they may have against lenders who committed fraud or other violations of law in inducing any homeowner into taking a mortgage. Does the Chairman of the Banking Committee agree with me on this point?

Mr. DODD. I do.

Mr. LEAHY. And finally, I ask as a general matter whether the Senator from Connecticut agrees with me that civil litigation brought by shareholders, or by or on behalf of financial institutions that purchased troubled assets, against officers, directors, and in some cases counterparties whose alleged misconduct caused or contributed to their losses, are matters for the justice system to resolve?

Mr. DODD. I agree with the chairman of the Judiciary Committee.

Mr. LEAHY. I thank the distinguished, chairman of the Banking Committee, Senator DODD, for engaging in this colloquy. And I thank him for consulting me early in this process to ensure that any legislation the Senate considers contains appropriate safeguards to ensure that the extraordinary authority given to the Treasury Secretary is reviewable, and that the rights of American citizens are preserved.

AUTO FINANCING COMPANY LOANS

Mr. LEVIN. As Treasury implements this new program, it is clear to me from reading the definition of financial institution that auto financing companies would be among the many financial institutions that would be eligible sellers to the government. Do you agree?

Mr. DODD. Yes, for purposes of this act, I agree that financial institution may encompass auto financing companies.

Mr. LEVIN. I thank the Senator. It also seems clear from the definition of troubled assets that, should the Treasury Secretary, after consulting with the Chairman of the Federal Reserve, determine that purchasing auto loans would promote financial market stability by opening up the market for car sales, that Treasury has the authority to make such purchases, so long as it transmits that determination to Congress.

Mr. DODD. Yes, should the Treasury Secretary, after consulting with the Chairman of the Federal Reserve System, determine that purchasing auto loans is necessary to promote financial market stability and transmits such determination in writing to the Congress, then the Treasury Secretary could engage in such purchases.

I am keenly aware of these issues as Chairman of the Banking Committee, which has jurisdiction over financial aid to commerce and industry and which wrote the Chrysler Corporation Loan Guarantee Act of 1979.

Ms. STABENOW. First, I want to commend Chairman DODD for his leadership on this bill. The credit crisis is having a significant impact on the hard-working men and women at GM in Michigan and throughout the country who proudly build American-made cars and trucks; the men and women who sell and finance Chrysler vehicles; and the individuals who service Ford vehicles in dealerships throughout the country.

With the credit markets having largely frozen up, domestic automobile manufacturers and finance companies face the most difficult conditions they have faced in decades. They have been hit with a double whammy: high gasoline and diesel prices, coupled with evaporating credit.

Considering the importance of the auto industry to our country I wanted to reiterate the points raised by my colleague, by clarifying that the Treasury has the authority to purchase auto loans and that auto financing companies could participate in the program if determined necessary by the Treasury, after consulting with the Chairman of the Federal Reserve System, to promote market stability.

Mr. DODD. This is correct. As previously stated, an auto financing company could be included in the definition of financial institution and auto debt could be included in the definition of troubled assets after the appropriate steps are taken.

Ms. STABENOW. I thank the Chairman. By getting credit back into the hands of our motor vehicle industry, we can help Main Street survive the credit crunch. We can get people back to work. And we can get cars and trucks moving again throughout the country.

DEFINITION OF A FINANCIAL INSTITUTION

Mr. REED. Mr. President, I would like to ask of the Committee on Banking, Housing, and Urban Development a question.

Is it Chairman DODD's understanding that the definition of a financial institution in section 3(5) of the Emergency Economic Stabilization Act includes the holding companies of such institutions described as ''any bank, savings association, credit union, security broker or dealer or insurance company''?

Mr. DODD. Yes, I completely agree that this would include holding companies of such companies listed and other companies that the Secretary may determine are eligible for this program.

Mr. REED. Section 113(d) of the Emergency Economic Stabilization Act states that warrants should be issued for companies that sell their assets to the Secretary, under the requirements of the section. Is it Chairman DODD's understanding that if a company selling such assets is a subsidiary that is not traded on an exchange but that has a holding company or parent that is traded on an exchange, that the stock of such holding or parent company would be referenced in the warrant?

Mr. DODD. Yes, it is the intent of the committee and of the Congress that this section intends that the securities of the parent or holding company of such a subsidiary would be used in the warrant. Nothing in this language is intended to exclude holding companies of subsidiaries and warrants should be exercised to the greatest extent possible for the benefit of the taxpayer.

Mr. REED. If I could ask one more question of the chairman, certain off-balance sheet entities or affiliates may sell troubled assets to the Government, to include but not limited to structured investment vehicles, qualified special purpose entities, special purpose entities, conduits, shell companies, and other legal entities. Is it the case that such entities or their holding or parent company would be required to enter into warrants with the Government?

Mr. DODD. Yes, I agree that this is the case and that it was the original intent of the committee and of the Congress to ensure that warrants are exercised to the greatest extent for the benefit of the taxpayer, to include recovery of losses and administrative expenses along with a premium set by Treasury.

TAX CREDIT INVESTMENTS

Mr. CARDIN. Mr. President, I want to commend the senior Senator from Connecticut, who chairs the Committee on Banking, Housing and Urban Affairs, for the extraordinary effort he and his staff have put in over the past several days to bring us to the point where we are preparing to vote on an economic stabilization package. While we all regret being in this situation, I think there is widespread recognition that we need to act to get our financial and credit markets operating again.

I have one particular concern I would like to address to the chairman, if I may. One of the problems created by the turmoil in the financial and credit markets is that many of the institutions needing liquidity, or those which normally would provide liquidity to the marketplace, hold illiquid low-income housing tax credit investments, many of which require further funding. These tax credit investments exist at the expense of the Federal Government since the holders of these investments achieve their return by taking credits against their taxes in the form of the section 42 low-income housing tax credit, LIHTC. Among the institutions with substantial holdings and which have historically provided liquidity to this market, but which can and no longer do so, are Fannie Mae and Freddie Mac, as well as several of the banking institutions which have been most adversely affected by the crisis in the markets. The ability of these institutions to use the credits has been severely impaired, and I am deeply concerned that, as with so many other financial assets, the holders will dump them into the market at distressed prices. The buyers at these distressed prices will be the very institutions that would have bought new credits at non-distressed prices. The result will be that instead of investing new money in new affordable housing, these buyers will instead use that money to buy existing credits at distressed prices and much less money will flow into the production of new affordable housing in the next few years. In fact, the turmoil in the capital markets has already severely restricted the flow of new funds into new affordable housing and this market has taken a serious downturn at a time when adding to the stock of affordable housing is critically important.

I would like to ask Chairman DODD if he believes that his amendment to H.R. 1424—specifically, section 3(9)(A) of division A—gives the Federal Government authority under the Troubled Asset Relief Program, TARP, to purchase existing low-income housing tax credit investments from the holders of those investments. Unlike many of the other assets the Government may purchase in other sectors, these investments can be purchased at little or no cost to the Treasury because the Government is already paying for them in the form of tax credits.

Mr. DODD. Mr. President, I want to assure my colleague from Maryland that I read that language as allowing such purchases, if necessary, to maintain liquidity in this particular market. I want to commend him for bringing this important matter to my attention as soon as we received the original Treasury proposal. My staff informed Senator CARDIN's staff that Treasury officials believed the proposal they sent to Congress authorized the purchase of such credits, and we concurred.

Mr. CARDIN. I thank the chairman for reassuring me. I think Treasury would bolster the market tremendously if it purchases such credits where necessary to: (1) create liquidity for those financial institutions currently holding these credits; and (2) stimulate the production of affordable housing in a market which has deteriorated substantially—all at little cost to the Government.

Mr. DODD. Mr. President, my colleague from Maryland has made an excellent suggestion for how Treasury ought to maintain liquidity with regard to the LIHTC. I thank him for his concern. The housing crisis in this country affects nearly everyone in some respect, including lower income individuals and families who cannot afford to buy homes and depend on the steady supply of affordable rental housing. My amendment to H.R. 1424 gives Treasury the authority, flexibility, and resources it needs to address this critical issue.

Mr. CARDIN. Mr. President, I thank the chairman for his assistance on this matter. We are being reminded, in the most painful way, that not all Americans can afford or want to own a home. Therefore, it is imperative that we maintain and add to the stock of affordable rental housing in this country during these difficult times. The LIHTC is the mechanism for doing that.

SECTION 101(C)(1)

Mr. AKAKA. Mr. President, I would like to ask the chairman of the Senate Banking Committee, the Senator from Connecticut, a question about the intent of section 101(c)(1) of the substitute amendment to H.R. 1424.

Section 101(c)(1) of the bill provides the Secretary with direct hiring authority, which is a useful tool to allow a Federal agency to make an immediate employment offer to an applicant. It is my understanding that this provision merely waives the normal approval process of direct hiring authority by the Office of Personnel Management and that section 101(c) does not otherwise waive application of title 5. Does the chairman agree with my interpretation?

Mr. DODD. Mr. President, I agree with the Senator from Hawaii's interpretation of that provision.

Mr. AKAKA. I thank the Senator very much for that clarification.

CARBON DIOXIDE SEQUESTRATION

Mrs. BOXER. Mr. President, I rise to enter into a colloquy with my good friend Senator BAUCUS, the distinguished chairman of the Committee on Finance. I wish to address section 115 of the bill, which provides a tax credit for carbon dioxide sequestration. Specifically, in section 115 of the bill, new section 45Q(d)(2) of the code provides that the Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency, shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide to qualify for the $20 per ton credit, such that the carbon dioxide does not escape into the atmosphere or affect underground sources of drinking water. Carbon dioxide sequestration in this provision includes storage at deep saline formations and unminable coal seems under such conditions as the Secretary may determine under these regulations. Is my understanding correct that the legislation is intended to require that EPA, in consultation with the Secretary of the Treasury regarding the carbon sequestration tax credit under this provision, will establish the

specific substantive environmental criteria and requirements for security and other measures for the geologic storage of carbon dioxide such that it does not escape into the atmosphere or affect underground sources of drinking water, and that the Secretary of the Treasury will then apply such criteria and requirements in establishing the requirements to qualify for the tax credit under this section?

Mr. BAUCUS. Mr. President, the distinguished chairman of the Committee on Environment and Public Works is correct. The legislation is intended to leave the substantive environmental criteria and requirements for carbon sequestration to EPA, including security-related issues, and as was done with respect to carbon sequestration in section 706 of the Energy Independence and Security Act of 2007, this provision is not intended to limit the legal requirements and authorities of EPA. EPA's criteria and requirements for carbon sequestration will be applied by the Secretary of the Treasury after consultation.

FORECLOSURE PREVENTION PROVISIONS

Mr. REID. I would like to ask the chairman of the Committee, Senator DODD, a question about the elements of this bill that deal with foreclosure prevention. I know this has been a priority for the Senator from Connecticut. I wonder if he could review the provisions of the legislation that will help more Americans keep their homes.

Mr. DODD. I thank the leader for his question and for his leadership in helping guide us through this crisis. He is exactly right. I have been saying throughout this process that foreclosure prevention has been one of the key reasons we need to move forward with the Emergency Economic Stabilization Act.

The legislation has a number of key provisions dealing with foreclosure prevention:

First, it requires that the Secretary of the Treasury ''implement a plan that seeks to maximize assistance for homeowners'' in keeping their homes. This means Congress has rejected an ad hoc approach by the Treasury in favor of a programwide system to keep families in homes.

In the case where the Secretary owns whole loans, we expect him to modify those loans to ensure long-term affordability for American families. The legislation outlines that this should be done by a reduction in principal, a reduction in the interest rate, a refinance through the HOPE for Homeowners Program, or any equivalent method that ensures that these hard working Americans are restored to sustainable home ownership.

I want to remind my colleagues that millions of Americans were sold loans that the mortgage brokers and lenders knew or should have known the borrowers could never afford. These ''exploding'' adjustable rate mortgages, ARMs, interest-only loans, and payment-option ARMs were designed to entice borrowers with low initial payments. Yet, after a couple of years, the payments would explode, increasing by 20 percent, 30 percent, or more. This is driving delinquency and foreclosure rates to historically high levels and driving home prices down, creating the economic downturn we are now facing.

Second, all other Federal agencies that own or control mortgages, including the FDIC, the Federal Housing Finance Agency, FHFA, and the Federal Reserve Board, must also implement plans to maximize assistance to homeowners. The FDIC, under the leadership of Chairman Sheila Bair, has already started down this road with the assets it has taken from IndyMac Bank, and we expect the other agencies to work with the FDIC in developing their own programs. The FHFA, which is the conservator for Fannie Mae and Freddie Mac, now oversees hundreds of billions of dollars of mortgages and mortgage-backed securities, MBS, which they will now be obligated to aggressively modify as a result of this legislation.

Third, one of the serious complications the modern mortgage market has created is the difficulty of doing modifications for loans that have been pooled and securitized into a host of MBS. It is often difficult to get the various investors in the numerous MBS backed by a particular pool of mortgages to all agree to do a modification.

This legislation, however, mandates that the Treasury and the other Federal agencies that own or control MBS must aggressively pursue loan modifications with other investors and must consent to all requests from servicers for reasonable modifications. In fact, it is our hope that the Federal Government will gain control of sufficient percentages of these pools that their ongoing pursuit of modifications and reasonableness in their willingness to accept offers that ensure families can keep their homes will tip the balance and lead to more modifications.

Finally, this bill includes three new provisions for the HOPE for Homeowners that should expand its reach and allow us to help many more homeowners avoid foreclosure and get into affordable, stable, FHA-insured mortgages.

As I have been saying for well over a year, the epicenter of the current financial and economic crisis is the housing crisis and the heart of the housing crisis is the foreclosure crisis. I understand the need to move to stabilize the financial system as a whole—that is why I have devoted countless hours over the past weeks to negotiate this final package.

But I would not support this bill, nor ask my colleagues to do so, if I was not convinced that it adds important new tools to address the core problem—rising delinquencies and foreclosures. Obviously, this bill does not include everything I would want but it is an important step forward.

Mr. REID. I want to thank my colleague for laying out these important points. The Senator has been one of the earliest and strongest voices raising the alarm about the danger of increased foreclosures. I thank him for his leadership.

Mr. BAUCUS. Mr. President, I ask unanimous consent to have printed in the RECORD the attached technical explanation of the tax provisions of the Emergency Economic Stabilization Act of 2008.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TECHNICAL EXPLANATION OF TITLE III (TAX PROVISIONS) OF DIVISION A OF H.R. 1424, THE ''EMERGENCY ECONOMIC STABILIZATION ACT OF 2008''

INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, provides a technical explanation of Title III (Tax Provisions) of Division A of H.R. 1424, the ''Emergency Economic Stabilization Act of 2008,'' scheduled for consideration by the Senate on October 1, 2008.

A. TREAT GAIN OR LOSS FROM SALE OR EXCHANGE OF CERTAIN PREFERRED STOCK BY APPLICABLE FINANCIAL INSTITUTIONS AS ORDINARY INCOME OR LOSS (SEC. 301 OF THE BILL)

PRESENT LAW

Under section 582(c)(1), the sale or exchange of a bond, debenture, note, or certificate or other evidence of indebtedness by a financial institution described in section 582(c)(2) is not considered a sale or exchange of a capital asset. The financial institutions described in section 582(c)(2) are (i) any bank (including any corporation which would be a bank except for the fact that it is a foreign corporation), (ii) any financial institution referred to in section 591, which includes mutual savings banks, cooperative banks, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, (iii) any small business investment company operating under the Small Business Investment Act of 1958, and (iv) any business development corporation, defined as a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to be used in trades and businesses which would generally not be made by banks within such region or State in the ordinary course of their business (except on the basis of a partial participation) and which is operated primarily for such purposes. In the case of a foreign corporation, section 582(c)(1) applies only with respect to gains or losses that are effectively connected with the conduct of a banking business in the United States.

Preferred stock issued by the Federal National Mortgage Corporation (''Fannie Mae'') or the Federal Home Loan Mortgage Corporation (''Freddie Mac'') is not treated as indebtedness for Federal income tax purposes, and therefore is not treated as an asset to which section 582(c)(1) applies. Accordingly, a financial institution described in section 582(c)(2) that holds Fannie Mae or Freddie Mac preferred stock as a capital asset generally will recognize capital gain or loss upon the sale or taxable exchange of that stock. Section 1211 provides that, in the case of a corporation, losses from sales or exchanges of capital assets are allowed only to the extent of gains from such sales or exchanges. Thus, in taxable years in which a

corporation does not recognize gain from the sale of capital assets, its capital losses do not reduce its income.

EXPLANATION OF PROVISION

Under the provision, gain or loss recognized by an ''applicable financial institution'' from the sale or exchange of ''applicable preferred stock'' is treated as ordinary income or loss. An applicable financial institution is a financial institution referred to in section 582(c)(2) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)). Applicable preferred stock is preferred stock of Fannie Mae or Freddie Mac that was (i) held by the applicable financial institution on September 6, 2008, or (ii) was sold or exchanged by the applicable financial institution on or after January 1, 2008, and before September 7, 2008.

In the case of a sale or exchange of applicable preferred stock on or after January 1, 2008, and before September 7, 2008, the provision applies only to taxpayers that were applicable financial institutions at the time of such sale or exchange. In the case of a sale or exchange of applicable preferred stock after September 6, 2008, by a taxpayer that held such preferred stock on September 6, 2008, the provision applies only where the taxpayer was an applicable financial institution at all times .during the period beginning on September 6, 2008, and ending on the date of the sale or exchange of the applicable preferred stock. Thus, the provision is generally inapplicable to any Fannie Mae or Freddie Mac preferred stock held by a taxpayer that was not an applicable financial institution on September 6, 2008 (even if such taxpayer subsequently became an applicable financial institution).

The provision grants the Secretary authority to extend the provision to cases in which gain or loss is recognized on the sale or exchange of applicable preferred stock acquired in a carryover basis transaction by an applicable financial institution after September 6, 2008. For example, if after September 6, 2008, Bank A, an entity that was an applicable financial institution at all times during the period beginning on September 6, 2008, acquired assets of Bank T, an entity that also was an applicable financial institution at all times during the period beginning on September 6, 2008, in a transaction in which no gain or loss was recognized under section 368(a)(1), regulations could provide that Fannie Mae and Freddie Mac stock that was applicable preferred stock in the hands of Bank T will continue to be applicable preferred stock in the hands of Bank A.

In addition, the Secretary may, through regulations, extend the provision to cases in which the applicable financial institution is a partner in a partnership that (i) held preferred stock of Fannie Mae or Freddie Mac on September 6, 2008, and later sold or exchanged such stock, or (ii) sold or exchanged such preferred stock on or after January 1, 2008, and before September 7, 2008. It is intended that Treasury guidance will provide that loss (or gain) attributable to Fannie Mae or Freddie Mac preferred stock of a partnership is characterized as ordinary in the hands of a partner only if the partner is an applicable financial institution, and only if the institution would have been eligible for ordinary treatment under section 301 of the bill had the institution held the underlying preferred stock directly for the time period during which both (i) the partnership holds the preferred stock and (ii) the institution holds substantially the same partnership interest.

In particular, substantial amounts of the preferred stock of Fannie Mae and Freddie Mac are held through ''pass-through trusts'' analyzed as partnerships for Federal income tax purposes. Substantially all the assets of such a pass-through trust comprise Fannie Mae or Freddie Mac preferred stock, and the trust in turn passes through dividends received on such stock to its two outstanding classes of certificates (partnership interests): an auction-rate class, where the share of the underlying preferred stock dividend is determined by periodic auctions, and a residual class, which receives the remainder of any dividends received on the underlying stock. The bill's delegation of authority to the Secretary anticipates that regulations will promptly be issued confirming in general that losses recognized by such a trust on or after January 1, 2008, in respect of the preferred stock of Fannie Mae or Freddie Mac that it acquired before September 6, 2008, will be characterized as ordinary loss in the hands of a certificate holder that is an applicable financial institution and that would be eligible for the relief contemplated by this provision if the applicable financial institution had held the underlying preferred stock directly for the same period that it held the pass-through certificate. In light of the substantial amount of such pass-through certificates in the marketplace, and the importance of the prompt resolution of the character of any resulting losses allocated to certificate holders that are applicable financial institutions for purposes of their regulatory and investor financial statement filings, unnecessary disruptions to the marketplace could best be avoided if the Secretary were to exercise the regulatory authority granted under the provision to address this case as soon as possible and, in any event, by October 31, 2008.

EFFECTIVE DATE

This provision applies to sales or exchanges occurring after December 31, 2007, in taxable years ending after such date.

B. SPECIAL RULES FOR TAX TREATMENT OF EXECUTIVE COMPENSATION OF EMPLOYERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF PROGRAM (SEC. 302 OF THE BILL AND SECS. 162(M) AND 280G OF THE CODE)

PRESENT LAW

In general

An employer generally may deduct reasonable compensation for personal services as an ordinary and necessary business expense. Sections 162(m) and 280G provide explicit limitations on the deductibility of compensation expenses in the case of corporate employers.

Section 162(m)

IN GENERAL

The otherwise allowable deduction for compensation paid or accrued with respect to a covered employee of a publicly held corporation is limited to no more than $1 million per year. The deduction limitation applies when the deduction would otherwise be taken. Thus, for example, in the case of compensation resulting from a transfer of property in connection with the performance of services, such compensation is taken into account in applying the deduction limitation for the year for which the compensation is deductible under section 83 (i.e., generally the year in which the employee's right to the property is no longer subject to a substantial risk of forfeiture).

Covered employees

Section 162(m) defines a covered employee as (1) the chief executive officer of the corporation (or an individual acting in such capacity) as of the close of the taxable year and (2) the four most highly compensated officers for the taxable year (other than the chief executive officer). Treasury regulations under section 162(m) provide that whether an employee is the chief executive officer or among the four most highly compensated officers should be determined pursuant to the executive compensation disclosure rules promulgated under the Securities Exchange Act of 1934 (''Exchange Act'').

In 2006, the Securities and Exchange Commission amended certain rules relating to executive compensation, including which executive officers' compensation must be disclosed under the Exchange Act. Under the new rules, such officers consist of (1) the principal executive officer (or an individual acting in such capacity), (2) the principal financial officer (or an individual acting in such capacity), and (3) the three most highly compensated executive officers, other than the principal executive officer or financial officer.

In response to the Securities and Exchange Commission's new disclosure rules, the Internal Revenue Service issued updated guidance on identifying which employees are covered by section 162(m). The new guidance provides that ''covered employee'' means any employee who is (1) the principal executive officer (or an individual acting in such capacity) defined in reference to the Exchange Act, or (2) among the three most highly compensated officers for the taxable year (other than the principal executive officer), again defined by reference to the Exchange Act. Thus, under current guidance, only four employees are covered under section 162(m) for any taxable year. Under Treasury regulations, the requirement that the individual meet the criteria as of the last day of the taxable year applies to both the principal executive officer and the three highest compensated officers.

Compensation subject to the deduction limitation

In general.—Unless specifically excluded, the deduction limitation applies to all remuneration for services, including cash and the cash value of all remuneration (including benefits) paid in a medium other than cash. If an individual is a covered employee for a taxable year, the deduction limitation applies to all compensation not explicitly excluded from the deduction limitation, regardless of whether the compensation is for services as a covered employee and regardless of when the compensation was earned. The $1 million cap is reduced by excess parachute payments (as defined in sec. 280G, discussed below) that are not deductible by the corporation.

Certain types of compensation are not subject to the deduction limit and are not taken into account in determining whether other compensation exceeds $1 million. The following types of compensation are not taken into account: (1) remuneration payable on a commission basis; (2) remuneration payable solely on account of the attainment of one or more performance goals if certain outside director and shareholder approval requirements are met (''performance-based compensation''); (3) payments to a tax-qualified retirement plan (including salary reduction contributions); (4) amounts that are excludable from the executive's gross income (such as employer-provided health benefits and miscellaneous fringe benefits (sec. 132)); and (5) any remuneration payable under a written binding contract which was in effect on February 17, 1993. In addition, remuneration does not include compensation for which a deduction is allowable after a covered employee ceases to be a covered employee. Thus, the deduction limitation often does not apply to deferred compensation that is otherwise subject to the deduction limitation (e.g., is not performance-based compensation) because the payment of compensation is deferred until after termination of employment.

Performance-based compensation.—Compensation qualifies for the exception for performance-based compensation only if (1) it is paid solely on account of the attainment of one or more performance goals, (2) the performance goals are established by a compensation committee consisting solely of two or more outside directors, (3) the material terms under which the compensation is to be paid, including the performance goals, are disclosed to and approved by the shareholders in a separate vote prior to payment, and (4) prior to payment, the compensation committee certifies that the performance goals and any other material terms were in fact satisfied.

Compensation (other than stock options or other stock appreciation rights) is not treated as paid solely on account of the attainment of one or more performance goals unless the compensation is paid to the particular executive pursuant to a pre-established objective performance formula or standard that precludes discretion. Stock options or other stock appreciation rights generally are treated as meeting the exception for performance-based compensation, provided that the requirements for outside director and shareholder approval are met (without the need for certification that the performance standards have been met), because the amount of compensation attributable to the options or other rights received by the executive would be based solely on an increase in the corporation's stock price. Stock-based compensation is not treated as performance-based if it is dependent on factors other than corporate performance. For example, if a stock option is granted to an executive with an exercise price that is less than the current fair market value of the stock at the time of grant, then the executive would have the right to receive compensation on the exercise of the option even if the stock price decreases or stays the same. In contrast to options or other stock appreciation rights, grants of restricted stock are not inherently performance-based because the executive may receive compensation even if the stock price decreases or stays the same. Thus, a grant of restricted stock does not satisfy the definition of performance-based compensation unless the grant or vesting of the restricted stock is based upon the attainment of a performance goal and otherwise satisfies the standards for performance-based compensation.

Section 280G

In general

In some cases, a compensation agreement for a corporate executive may provide for payments to be made if there is a change in control of the executive's employer, even if the executive does not lose his or her job as part of the change in control. Such payments are sometimes referred to as ''golden parachute payments.'' The Code contains limits on the amount of certain types of such payments, referred to as ''excess parachute payments.'' Excess parachute payments are not deductible by a corporation. In addition, an excise tax is imposed on the recipient of any excess parachute payment equal to 20 percent of the amount of such payment.

Definition of parachute payment

A ''parachute payment'' is any payment in the nature of compensation to (or for the benefit of) a disqualified individual which is contingent on a change in the ownership or effective control of a corporation or on a change in the ownership of a substantial portion of the assets of a corporation (''acquired corporation''), if the aggregate present value of all such payments made or to be made to the disqualified individual equals or exceeds three times the individual's ''base amount.''

The individual's base amount is the average annual compensation payable by the acquired corporation and includible in the individual's gross income over the five-taxable years of such individual preceding the individual's taxable year in which the change in ownership or control occurs.

The term parachute payment also includes any payment in the nature of compensation to a disqualified individual if the payment is made pursuant to an agreement which violates any generally enforced securities laws or regulations.

Certain amounts are not considered parachute payments, including payments under a qualified retirement plan, and payments that are reasonable compensation for services rendered on or after the date of the change in control. In addition, the term parachute payment does not include any payment to a disqualified individual with respect to a small business corporation or a corporation no stock of which was readily tradable, if certain shareholder approval requirements are satisfied.

Disqualified individual

A disqualified individual is any individual who is an employee, independent contractor, or other person specified in Treasury regulations who performs personal services for the corporation and who is an officer, shareholder, or highly compensated individual of the corporation. Personal service corporations and similar entities generally are treated as individuals for this purpose. A highly compensated individual is defined for this purpose as an employee (or a former employee) who is among the highest-paid one percent of individuals performing services for the corporation (or an affiliated corporation) or the 250 highest paid individuals who perform services for a corporation (or affiliated group).

Excess parachute payments

In general, excess parachute payments are any parachute payments in excess of the base amount allocated to the payment. The amount treated as an excess parachute payment is reduced by the portion of the payment that the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services actually rendered before the change in control.

EXPLANATION OF PROVISION

Section 162(m)

In general

Under the provision, the section 162(m) limit is reduced to $500,000 in the case of otherwise deductible compensation of a covered executive for any applicable taxable year of an applicable employer.

An applicable employer means any employer from which one or more troubled assets are acquired under the ''troubled assets relief program'' (''TARP'') established by the bill if the aggregate amount of the assets so acquired for all taxable years (including assets acquired through a direct purchase by the Treasury Department, within the meaning of section 113(c) of Title I of the bill) exceeds $300,000,000. However, such term does not include any employer from which troubled assets are acquired by the Treasury Department solely through direct purchases (within the meaning of section 113(c) of Title I of the bill). For example, if a firm sells $250,000,000 in assets through an auction system managed by the Treasury Department, and $100,000,000 to the Treasury Department in direct purchases, then the firm is an applicable employer. Conversely, if all $350,000,000 in sales take the form of direct purchases, then the firm would not be an applicable employer.

Unlike section 162(m), an applicable employer under this provision is not limited to publicly held corporations (or even limited to corporations). For example, an applicable employer could be a partnership if the partnership is an employer from which a troubled asset is acquired. The aggregation rules of Code section 414(b) and (c) apply in determining whether an employer is an applicable employer. However, these rules are applied disregarding the rules for brother-sister controlled groups and combined groups in sections 1563(a)(2) and (3). Thus, this aggregation rule only applies to parent-subsidiary controlled groups. A similar controlled group rule applies for trades and businesses under common control.

The result of this aggregation rule is that all corporations in the same controlled group are treated as a single employer for purposes of identifying the covered executives of that employer and all compensation from all members of the controlled group are taken into account for purposes of applying the $500,000 deduction limit. Further, all sales of assets under the TARP from all members of the controlled group are considered in determining whether such sales exceed $300,000,000.

An applicable taxable year with respect to an applicable employer means the first taxable year which includes any portion of the period during which the authorities for the TARP established under the bill are in effect (the ''authorities period'') if the aggregate amount of troubled assets acquired from the employer under that authority during the taxable year (when added to the aggregate amount so acquired for all preceding taxable years) exceeds $300,000,000, and includes any subsequent taxable year which includes any portion of the authorities period.

A special rule applies in the case of compensation that relates to services that a covered executive performs during an applicable taxable year but that is not deductible until a later year (''deferred deduction executive remuneration''), such as nonqualified deferred compensation. Under the special rule, the unused portion (if any) of the $500,000 limit for the applicable tax year is carried forward until the year in which the compensation is otherwise deductible, and the remaining unused limit is then applied to the compensation.

For example, assume a covered executive is paid $400,000 in cash salary by an applicable employer in 2008 (assuming 2008 is an applicable taxable year) and the covered executive earns $100,000 in nonqualified deferred compensation (along with the right to future earnings credits) payable in 2020. Assume further that the $100,000 has grown to $300,000 in 2020. The full $400,000 in cash salary is deductible under the $500,000 limit in 2008. In 2020, the applicable employer's deduction with respect to the $300,000 will be limited to $100,000 (the lesser of the $300,000 in deductible compensation before considering the special limitation, and $500,000 less $400,000, which represents the unused portion of the $500,000 limit from 2008).

Deferred deduction executive remuneration that is properly deductible in an applicable taxable year (before application of the limitation under the provision) but is attributable to services performed in a prior applicable taxable year is subject to the special rule described above and is not double-counted. For example, assume the same facts as above, except that the nonqualified deferred compensation is deferred until 2009 and that 2009 is an applicable taxable year. The employer's deduction for the nonqualified deferred compensation for 2009 would be limited to $100,000 (as in the example above). The limit that would apply under the provision for executive remuneration that is in a form other than deferred deduction executive remuneration and that is otherwise deductible for 2009 is $500,000. For example, if

the covered executive is paid $500,000 in cash compensation for 2009, all $500,000 of that cash compensation would be deductible in 2009 under the provision.

Covered executive

The term covered executive means any individual who is the chief executive officer or the chief financial officer of an applicable employer, or an individual acting in that capacity, at any time during a portion of the taxable year that includes the authorities period. It also includes any employee who is one of the three highest compensated officers of the applicable employer for the applicable taxable year (other than the chief executive officer or the chief financial officer and only taking into account employees employed during any portion of the taxable year that includes the authorities period).

The determination of the three highest compensated officers is made on the basis of the shareholder disclosure rules for compensation under the Exchange Act, except to the extent that the shareholder disclosure rules are inconsistent with the provision. Such shareholder disclosure rules are applied without regard to whether those rules actually apply to the employer under the Exchange Act. If an employee is a covered executive with respect to an applicable employer for any applicable taxable year, the employee will be treated as a covered executive for all subsequent applicable taxable years (and will be treated as a covered executive for purposes of any subsequent taxable year for purposes of the special rule for deferred deduction executive remuneration).

Executive remuneration

The provision generally incorporates the present law definition of applicable employee remuneration. However, the present law exceptions for remuneration payable on commission and performance-based compensation do not apply for purposes of the new $500,000 limit. In addition, the new $500,000 limit only applies to executive remuneration which is attributable to services performed by a covered executive during an applicable taxable year. For example, assume the same facts as in the example above, except that the covered executive also receives in 2008 a payment of $300,000 in nonqualified deferred compensation that was attributable to services performed in 2006. Such payment is not treated as executive remuneration for purposes of the new $500,000 limit.

Other rules

The modification to section 162(m) provides the same coordination rules with disallowed parachute payment and stock compensation of insiders in expatriated corporations as exist under present law section 162(m). Thus, the $500,000 deduction limit under this section is reduced (but not below zero) by any parachute payments (including parachute payments under the expanded definition under this provision) paid during the authorities period and any payment of the excise tax under section 4985 for stock compensation of insiders in expatriated corporations.

The modification authorizes the Secretary of the Treasury to prescribe such guidance, rules, or regulations as are necessary to carry out the purposes of the $500,000 deduction limit, including the application of the limit in the case of any acquisition, merger, or reorganization of an applicable employer.

Section 280G

The provision also modifies section 280G by expanding the definition of parachute payment in the case of a covered executive of an applicable employer. For this purpose, the terms ''covered executive,'' ''applicable taxable year,'' and ''applicable employer'' have the same meaning as under the modifications to section 162(m) (described above).

Under the modification, a parachute payment means any payments in the nature of compensation to (or for the benefit of) a covered executive made during an applicable taxable year on account of an applicable severance from employment during the authorities period if the aggregate present value of such payments equals or exceeds an amount equal to three times the covered executive's base amount. An applicable severance from employment is any severance from employment of a covered executive (1) by reason of an involuntary termination of the executive by the employer or (2) in connection with a bankruptcy, liquidation, or receivership of the employer.

Whether a payment is on account of the employee's severance from employment is generally determined in the same manner as under present law. Thus, a payment is on account of the employee's severance from employment if the payment would not have been made at that time if the severance from employment had not occurred. Such payments include amounts that are payable upon severance from employment (or separation from service), vest or are no longer subject to a substantial risk of forfeiture on account of such a separation, or are accelerated on account of severance from employment. As under present law, the modified definition of parachute payment does not include amounts paid to a covered executive from certain tax qualified retirement plans.

A parachute payment during an applicable taxable year that is paid on account of a covered executive's applicable severance from employment is nondeductible on the part of the employer (and the covered executive is subject to the section 4999 excise tax) to the extent of the amount of the payment that is equal to the excess over the employee's base amount that is allocable to such payment. For example, assume that a covered executive's annualized includible compensation is $1 million and the covered executive's only parachute payment under the provision is a lump sum payment of $5 million. The covered executive's base amount is $1 million and the excess parachute payment is $4 million.

The modifications to section 280G do not apply in the case of a payment that is treated as a parachute payment under present law. The modifications further authorize the Secretary of Treasury to issue regulations to carry out the purposes of the provision, including the application of the provision in the case of a covered executive who receives payments some of which are treated as parachute payments under present law section 280G and others of which are treated as parachute payments on account of this provision, and the application of the provision in the event of any acquisition, merger, or reorganization of an applicable employer. The regulations shall also prevent the avoidance of the application of the provision through the mischaracterization of a severance from employment as other than an applicable severance from employment. It is intended that the regulations prevent the avoidance of the provision through the acceleration, delay, or other modification of payment dates with respect to existing compensation arrangements.

EFFECTIVE DATE

The provision is effective for taxable years ending on or after date of enactment, except that the modifications to section 280G are effective for payments with respect to severances occurring during the authorities period.

C. EXCLUDE DISCHARGES OF ACQUISITION INDEBTEDNESS ON PRINCIPAL RESIDENCES FROM GROSS INCOME (SEC. 303 OF THE BILL AND SEC. 108 OF THE CODE)

PRESENT LAW

In general

Gross income includes income that is realized by a debtor from the discharge of indebtedness, subject to certain exceptions for debtors in Title 11 bankruptcy cases, insolvent debtors, certain student loans, certain farm indebtedness, and certain real property business indebtedness (secs. 61(a)(12) and 108). In cases involving discharges of indebtedness that are excluded from gross income under the exceptions to the general rule, taxpayers generally reduce certain tax attributes, including basis in property, by the amount of the discharge of indebtedness.

The amount of discharge of indebtedness excluded from income by an insolvent debtor not in a Title 11 bankruptcy case cannot exceed the amount by which the debtor is insolvent. In the case of a discharge in bankruptcy or where the debtor is insolvent, any reduction in basis may not exceed the excess of the aggregate bases of properties held by the taxpayer immediately after the discharge over the aggregate of the liabilities of the taxpayer immediately after the discharge (sec. 1017).

For all taxpayers, the amount of discharge of indebtedness generally is equal to the difference between the adjusted issue price of the debt being cancelled and the amount used to satisfy the debt. These rules generally apply to the exchange of an old obligation for a new obligation, including a modification of indebtedness that is treated as an exchange (a debt-for-debt exchange).

Qualified principal residence indebtedness

An exclusion from gross income is provided for any discharge of indebtedness income by reason of a discharge (in whole or in part) of qualified principal residence indebtedness. Qualified principal residence indebtedness means acquisition indebtedness (within the meaning of section 163(h)(3)(B), except that the dollar limitation is $2,000,000) with respect to the taxpayer's principal residence. Acquisition indebtedness with respect to a principal residence generally means indebtedness which is incurred in the acquisition, construction, or substantial improvement of the principal residence of the individual and is secured by the residence. It also includes refinancing of such indebtedness to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness. For these purposes, the term ''principal residence'' has the same meaning as under section 121 of the Code.

If, immediately before the discharge, only a portion of a discharged indebtedness is qualified principal residence indebtedness, the exclusion applies only to so much of the amount discharged as exceeds the portion of the debt which is not qualified principal residence indebtedness. Thus, assume that a principal residence is secured by an indebtedness of $1 million, of which $800,000 is qualified principal residence indebtedness. If the residence is sold for $700,000 and $300,000 debt is discharged, then only $100,000 of the amount discharged may be excluded from gross income under the qualified principal residence indebtedness exclusion.

The basis of the individual's principal residence is reduced by the amount excluded from income under the provision.

The qualified principal residence indebtedness exclusion does not apply to a taxpayer in a Title 11 case; instead the general exclusion rules apply. In the case of an insolvent taxpayer not in a Title 11 case, the qualified

principal residence indebtedness exclusion applies unless the taxpayer elects to have the general exclusion rules apply instead.

The exclusion does not apply to the discharge of a loan if the discharge is on account of services performed for the lender or any other factor not directly related to a decline in the value of the residence or to the financial condition of the taxpayer.

The exclusion for qualified principal residence indebtedness is effective for discharges of indebtedness before January 1, 2010.

EXPLANATION OF PROVISION

The provision extends for three additional years the exclusion from gross income for discharges of qualified principal residence indebtedness.

EFFECTIVE DATE

The provision is effective for discharges of indebtedness on or after January 1, 2010, and before January 1, 2013.

Mr. BYRD. Mr. President, this is an enormous package—$700 billion. That ain't chicken feed! That is 17 times what we spend annually on health care for our Nation's veterans. That is 14 times what we spend annually on highways and mass transportation. That is more than the annual defense budget, which supplies our troops and fuels our planes and naval vessels around the globe. That is more than the total amount the Federal Government will spend on homeland security over the next 17 years. And that number actually hides the real potential cost because the Treasury Secretary would be authorized to buy and sell an unlimited amount of these troubled assets in the next 2 years.

It is an enormous amount of money. And it involves granting an enormous amount of authority to the Secretary of the Treasury. I believe many Americans, and that includes this Senator, would not pretend to understand all of the nuances of the financial mess that we are told is creeping into our Main Street communities and threatens to jeopardize the security of millions of Americans. But we all understand that, when working families were suffering because of the economic policies of these past 8 years, nobody in the Treasury Department or the Federal Reserve told us about the dangerous course we were on. When the Senate tried to pass an economic stimulus bill just last week, which included unemployment benefits and financial assistance for these same working families struggling with rising energy and food prices, those efforts were met with filibusters and fierce opposition from the White House that now wants a bailout of Wall Street. Apparently Wall Street institutions are too big and too important to be allowed to fail, but the same isn't true when it comes to working families.

West Virginia has always had its share of economic troubles. But, it has been further battered by the Bush administration's feckless fiscal policies. The annual budget cuts imposed by the Bush administration and its allies in the Congress have punished the people of my State and many other States. Everything from health care, to law enforcement, to programs for children have been put on the chopping block.

I grew up in the Great Depression. That economic collapse followed a decade of business prosperity. Three Republican administrations had pursued policies that brought the country to the brink of economic ruin. Those administrations pushed to get the government off the backs of business, a ''return to normalcy,'' President Harding called it. They had pushed through enormous tax cuts, including the largest tax cut in American history to that point all the while proclaiming the virtues of big business: ''The business of America, is business,'' thundered President Coolidge.

For the past 8 years, we have again heard the same slogans reflecting the same philosophy and seen another Republican administration follow the same reckless path. ''Unleash capitalism'', has been the cry for the past 8 years. ''Get the Government off our backs.'' The government is the problem, not the solution. We have heard it all before.

Well, the financial oversight agencies have had an 8 year holiday. For 8 years, Wall Street has run wild, as they loaned money they did not have, to people who could not afford these loans, to buy houses and other real estate that were enormously overpriced. Now, faced with financial troubles, the Wall Street barons look to the very Government that they had been resisting to save them to the tune of $700 billion. As the fear spreads and confidence erodes, now the turmoil on Wall Street threatens to wash over Main Street as banks refuse credit, old loans default, and investments that fund the pensions of the average American plummet in value.

Republicans espouse the theory of trickle down economics—that the benefits of economic growth will trickle down to the working family. What hogwash. This crisis proves that the only thing that trickles down to the working family is the losses that come from Wall Street run wild. I fear the enormity of the potential crisis that looms over our entire economy. The scope and the cost of the bill speak to the severity of the challenge that our financial leaders believe our country is confronting. This is legislation I do not want to support, yet I fear the consequences of its failure in this body. I fear opposing this legislation because I fear even more what might happen to our States, our workers, their pensions, and their jobs if this turmoil on Wall Street spreads further into our economy.

I am somewhat comforted by the improvements Congress has made in an otherwise total giveaway of funds and authority to the executive branch. The EESA bill is 113 pages compared to the 3-page proposal requested by the administration. Much of the new language includes checks on the new authority:

No. 1 sunsets the legislation on December 31, 2009—15 months from now—but the Treasury may extend the program until 2 years after the date of enactment;

No. 2 releases $700 billion to the Treasury in parts—the first $250 billion is available immediately, the next $100 billion is available after Presidential certification, and the next $350 billion is available unless a joint resolution of disapproval, subject to expedited procedures, is passed within 15 days of the Treasury request;

No. 3 includes the Appropriations Committees in the list of congressional committees that will receive regular reports;

No. 4 creates a new Congressional Oversight Panel in the legislative branch, which would be required to report to the Congress 30 days after the Treasury Secretary first exercises his authorities and every 30 days thereafter. The members of the panel would be appointed by the House Speaker, the Senate majority leader, the House and Senate minority leaders;

No. 5 requires the Comptroller General to report to the Congress every 60 days;

No. 6 creates a special inspector general, which would be subject to Presidential appointment and Senate confirmation, and would be required to report to the Congress within 60 days of confirmation and quarterly thereafter;

No. 7 creates a Financial Stability Oversight Board in the executive branch. The board would consist of the chairman of the Federal Reserve, Treasury Secretary, Chairman of the Securities and Exchange Commission, Secretary of Housing and Urban Development, the Director of the Federal Housing Finance Agency, the overseer for Fannie Mae and Freddie Mac, and would be required to report to the Congress quarterly. In addition, 60 days after the Treasury Secretary first exercises his authorities and every month thereafter, and 7 days after the purchasing authority reaches each $50 billion tranche, the Secretary would be required to report to the Congress;

No. 8 within 2 days of the Secretary exercising his authority under the act or within 45 days of enactment, the Secretary would be required to publish program guidelines explaining how troubled assets would be selected, priced, and purchased.

I believe that our duty is clear. We must pass this legislation or further destabilize our country's economic situation. But after we pass it, if we do, we must then go after all of those who so cavalierly put the rest of us at such incredible risk.

Mr. DORGAN. Mr. President, providing a $700 billion financial rescue plan without requiring reform and regulation of the financial markets is a serious mistake. That is exactly what this legislation does.

I believe that we are in an economic crisis that does require a response by Congress.

But it cannot be a response that commits the American taxpayers to a large

rescue fund for many of America's biggest financial institutions while still leaving in place unregulated financial markets that allowed this financial crisis to happen.

Despite my best efforts there is nothing in this legislation that will require the regulation of the very financial markets that have, in recent years, helped create a casinolike atmosphere with large financial institutions exhibiting unprecedented greed in search of short-term profits and big bonuses that knew no bounds.

I will not vote for a plan that I believe fails to address the central cause of this crisis: unregulated financial markets that hide the unbelievable speculation and reckless investments by some major financial institutions whose losses are now being loaded on the backs of the American taxpayers. Those financial markets must be regulated now!

In 1999 when Congress debated a large deregulation bill titled the Financial Modernization Act, I was one of only eight Senators who voted no and I warned then in Senate debate that ''this bill will also raise the likelihood of future massive taxpayer bailouts.'' I wish I had been wrong.

Nine years later we are considering a ''massive taxpayer bailout'' plan that provides no regulation of the hedge funds and derivative trading that has caused much of the financial wreckage in our economy.

The plan also fails to restore the protections that were removed in the Financial Modernization Act to separate FDIC insured bank operations from the risky speculative investments in real estate and securities.

Under this plan the creation of exotic securities that are traded in financial darkness by unregulated hedge funds and other institutions can continue. It is estimated that there is a notional value of more than $60 trillion of credit default swaps in our economy. No one knows where they are, whose balance sheets they may threaten, or how much additional risk they pose to financial firms. Yet, I was told this plan could not require regulation and transparency of these financial markets because there was opposition in Congress and the White House. That is not a satisfactory answer for me. And I don't believe it is satisfactory to the taxpayers.

The legislation contains some provisions that I strongly support. I believe we should increase the FDIC insurance to $250,000 per account. I also strongly support the tax extenders and the tax incentives for renewable energy.

But in the end, if this plan is about restoring confidence, the failure to include reform and regulatory measures along with the money is a fatal flaw that I believe will end up hurting our country.

The following are the six steps I called for including in the financial rescue plan. While there was some improvement in the plan along the way, it fails to do what I think is necessary to protect both the economy and taxpayers.

1. Restoring the stability and safety of the banking system by re-creating protections of the Glass-Steagall Act, which prohibited the merging of banking businesses with riskier investments. That post-Depression Era protection served us well for seven decades before its repeal.

2. Addressing the wildly excessive compensation on Wall Street, which has incentivized reckless behavior. In recent years, Wall Street has doled out more than $100 billion in bonuses to the very people who have steered us into this mess, including more than $33 billion in each of 2007 and 2006.

3. Developing a system of regulation that would require accountability for the speculative investment activities of hedge funds and investment banks that create and sell complex securities.

4. Providing for a period of forbearance on mortgages where homeowners could continue to pay mortgages at a set rate.

5. Creating a Taxpayer Protection Task Force that would investigate and claw back ill-gotten gains. This would be targeted at individuals and firms that profited from creating and selling worthless securities and toxic products. Despite the fact that this practice caused the current economic crisis, many of these individuals and firms now seek to benefit from a Government bailout.

6. Making sure that U.S. taxpayers get to share in the increased values, not just the burden of risk, of the firms they are bailing out.

Mr. LEVIN. Mr. President, our Nation's economy is in crisis, the likes of which we have not seen since the 1930s. For years, we have traveled a disturbing path: foreclosures and unemployment are up while median income and purchasing power are down. CEO pay has skyrocketed while regular Americans are suffering. Economic growth has slowed because tight credit has forced businesses large and small to put investments for the future on hold while they focus on making sure they have capital to buy inventory or even make payroll.

But in just the last few weeks, we have seen something even more startling appear on the horizon: our current path ends at a cliff, and if we do not take quick action to change the course of our economy, we could go over the edge. The reasons we are at this cliff are many. The path we have traveled has been marked by an appalling lack of oversight by the regulators of the marketplace. Wall Street has run amok with greed while the Bush administration and others urged them on in the name of deregulation. As in the runup to the Great Depression, our free markets are running wild. We have reduced capital requirements, removed the authority of the Securities and Exchange Commission to regulate swaps, and speculators took over the majority of some commodity trading, like oil. Still, echoing Roosevelt's opponents in the 1930s, some opponents of government stabilization actions argue that the kind of rescue plan before us today—and regulation of the practices that brought us here—threatens the freedom of our markets and our people.

The opposite is true. In a free country, we need to have stoplights and cops to maintain order, keep everyone safe, and give everyone fair treatment and fair opportunity. The same is true of a free economy: when stoplights and cops are replaced by a drive to achieve total deregulation, the country is left with an absolute mess—and that is what we face today. Cops have been taken off the beat in our financial markets; stoplights to put a hold on free markets running wild have been dismantled; and now, regular Americans are suffering, and face even more dire consequences.

There is plenty of blame to go around, and the excesses that continue to surface as this unfolds will no doubt be shocking. In the immediate term, however, the most pressing issue is how we turn our unstable economic situation around to avoid an even more dire result.

If we fail to take action, pensions and savings could quickly be decimated by a wrecked stock market, and Americans could suffer with significant job losses and less ability to buy everything from groceries to a new car or house. Small businesses and even large ones are likely to see their access to capital further reduced, home mortgages could become even more difficult to acquire or refinance, foreclosures could further skyrocket, and auto and student loans could be much more difficult to get. Construction jobs would likely disappear, automakers would cut back even further on production and lay off workers, and retail and service jobs would be cut. Retirees who are counting on a 401(k) or other type of pension would see their nest eggs shattered. If the stock market crashes, investments—even those made years or decades ago in supposedly ''safe'' assets—would be drowned.

It is clear to me that we cannot allow our Nation's economy to fall off this cliff. We need to take action before it is too late. Doing nothing is not an option. But it is with reluctance that I will vote for this rescue plan because it is not entirely clear that it will unlock enough credit and stop enough foreclosures to turn things around. It is also evident that this plan only includes the first steps towards getting regulatory cops back on the beat to make sure our markets are not allowed to continue running wild. But there also is no better alternative at this time, so I will vote for this plan with the hope that allowing the Government to buy up a significant portion of the troubled assets that are weighing down banks and other financial institutions will unlock enough capital to restore flexibility and credit to businesses and

consumers, before Americans suffer even greater consequences of our current course. In addition, if done right, the Government can use this plan to purchase, modify, refinance, and resell mortgages that are based on accurate home values, have fair, longer-term repayment terms that homeowners can meet, and will return mortgage repayment rates to their historic high levels of dependability and profitability. If that is how this program is carried out, it can avert a disaster. Unlocking credit and restructuring mortgages will also help soothe investor concerns and, therefore, protect pensions, savings and investments.

I could not have supported the original plan sent to Congress by the Bush administration. It did nothing to protect taxpayers or provide any oversight. It also did nothing to address the core of the problem, which is the foreclosure crisis. I think, however, that we in Congress have decided that if taxpayer dollars are used to clean up the financial mess, the administration is going to have to accept taxpayer safeguards and taxpayer oversight.

Congress has done significant work to add in some of the needed taxpayer protections, and to make sure that this plan is grounded in helping regular Americans. Among other safeguards, this rescue bill provides the government, and thus the taxpayers, with options to acquire an equity stake in companies that take advantage of the program. By doing so, the government is providing some financial protection to taxpayers.

The bill also includes limits on executive compensation for entities that take advantage of government assistance, though, like other provisions, the effectiveness of these provisions will depend upon how well they are implemented. The bill also imposes needed internal controls and oversight provisions to make sure this unprecedented power and amount of money is used responsibly. These controls include immediate public reporting of the assets purchased, including the price paid; GAO audits of those financial reports; and Inspector General oversight to prevent fraud, favoritism, waste of taxpayer dollars, and abuse of power. In addition, a special House-Senate oversight panel will be established to track this program and ensure that taxpayer interests are protected. These protections are important. Still more important is that Congress revamp oversight and regulation of our financial markets to prevent future financial disasters like this one.

There are other provisions in the bill that are particularly important that I want to mention.

I am pleased that this bill, in sections 109 and 110, requires the Treasury Department to maximize assistance for homeowners and encourage mortgage service providers to minimize foreclosures so as to keep families in their homes. Rampant foreclosures are at the core of this economic crisis, and a recovery can only come when the housing market turns around. This effort to limit foreclosures will be bolstered when the Federal government holds, owns or controls mortgages or mortgage backed securities. As the owner of loans that are at risk to be foreclosed upon, the government can consent to modifications, and can rework mortgages so that the homeowner can continue to make payments. Homeowners, communities and taxpayers generally will be better off than if these mortgages go into foreclosure.

It should be noted that foreclosure mitigation measures will become much more difficult to enforce when the government buys mortgages that have been securitized and divided up into smaller parts. In these cases, section 109 requires Treasury to coordinate with the Federal Deposit Insurance Corporation, the Federal Reserve, Fannie Mae, Freddie Mac, the Department of Housing and Urban Development and other Federal entities that hold troubled assets to attempt to identify opportunities for the acquisition of classes of troubled assets. This will enable Treasury to improve the loan modification and restructuring process.

All of the homeowner assistance and foreclosure mitigation programs included in this bill set worthy goals, but they could be stronger. Rather than encouraging servicers to modify unaffordable loans, the United States should undertake a systematic effort to minimize foreclosures, and the Treasury's efforts should be built around that principle. I would also like to have seen a similar requirement in any mortgage-related asset that the United States resold to the private sector. Unfortunately, such a carry-forward provision is not included in the final bill.

I also support the bill provisions in section 108 that require Treasury to issue regulations or guidelines to ''manage or prohibit'' conflicts of interest. One conflict of interest that deserves special attention involves companies that service residential mortgages. These companies make a stream of revenue from servicing the loans. They may not specialize in loan modifications or refinancing. If a mortgage loan is refinanced through FHA or otherwise, the loan servicer may lose the business. For that reason, some loan servicers may have a conflict of interest when it comes to implementing the bill's policies promoting loan modifications and the HOPE for Homeowners Program. Therefore, in addition to companies that service loans, the Treasury Department should consider hiring companies who have the experience and technology to modify and refinance loans with and without FHA insurance. These companies need to be committed to working with borrowers to develop a loan that they can pay, and the companies need not be worried about servicing the modified or restructured loan. I am assured that the Treasury Department has the authority to accomplish this.

Another important bill provision limits purchases of troubled assets to ''financial institutions'' which are ''established and regulated under the laws of the United States.'' We cannot afford to bail out offshore hedge funds, foreign banks, and sovereign wealth funds that purchased high risk mortgage-backed securities and other high risk investments to obtain high returns. I am relieved that we are focusing our efforts on U.S. institutions subject to U.S. regulation.

I am also pleased that many state and regional banks, auto finance companies and other off-Wall Street entities will be eligible for participation in the troubled asset relief program. These entities are hurting, and their financial stability has a direct impact on American consumers; they should have access to this new market for otherwise illiquid assets. Furthermore, under this bill, the Treasury Secretary has the authority to purchase troubled assets that are not mortgage-related, so long as, after consulting with the Chairman of the Federal Reserve, he or she determines that doing so would promote financial market stability.

While this final bill is miles ahead of the Bush administration proposal sent to Congress, I am disappointed that it does not contain a number of additional taxpayer protections I advocated. Those missing protections included limits on the types of assets that could be purchased, requirements for contract competition, policies to minimize foreclosures, and regulation of credit default swaps.

One of the taxpayer safeguards I advocated, for example, was to limit the bail out to purchasing troubled mortgages on ''real estate located in the United States.'' That limitation was not, however, included in the final bill. Its absence means that, as currently written, Treasury is able to purchase troubled mortgages on real estate located in Germany, Japan, China, anywhere in the world where U.S. financial institutions bought mortgages. That doesn't make sense, and I don't know why this basic limitation was left out of the bill. We can't afford to bail out mortgages or mortgage-backed securities on real estate in other countries, and I hope we won't.

Another problem is that the bill does not require that competition be used to select the contractors who will manage the hundreds of billions of dollars in troubled assets that will be purchased under this act. A prior draft version of the bill stated that the Secretary ''shall solicit proposals from a broad range of qualified vendors interested in performing the work.'' That language disappeared from the final bill. The American taxpayer is left hoping that the Bush administration or the next administration will not continue the Bush administration's prior record of awarding huge, no-bid contracts to a favored few.

Finally, I am disappointed that the bailout bill does not restore the authority of the United States to regulate one of the prime culprits responsible for this financial disaster, credit default swaps.

Credit default swaps are a type of financial derivative typically used to insure payment of a debt obligation. Some companies, such as AIG, issued them to the debt holder in place of insurance policies to assure payment, while others used them like short sales, betting on whether an unrelated company will fail to pay its debts. These bets, called credit default swaps, are primarily responsible for the Federal bailout of AIG, they are the focus of an ongoing SEC investigation into market manipulation, and they continue to threaten U.S. financial market stability because so many financial firms have credit default swaps on their books.

Eight years ago, the Commodity Futures Modernization Act of 2000 prohibited the Securities and Exchange Commission from regulating all types of swap agreements, including credit default swaps. As a result, a completely unregulated $60 trillion credit default swap market has developed with no capital requirements like insurance companies have, no disclosures, no safeguards, and no oversight by any federal agency.

The statutory bar against regulating swaps is a prime example of the deregulatory policies that landed American taxpayers in this $700 billion mess. It is a prime reason why financial institutions are afraid to lend to each other—no one knows who has how many credit default swaps outstanding, with which counterparties, involving how much money. Yet this bill fails to address this problem.

At a Senate hearing on September 23, SEC Chairman Christopher Cox testified that the credit default swap market ''is completely lacking in transparency,'' ''is regulated by no one,'' and ''is ripe for fraud and manipulation.'' He stated that the SEC's lack of regulatory authority over swaps is a ''regulatory hole that must be immediately addressed,'' warning that otherwise ''we will have another crisis on our hands.'' Chairman Cox stated: ''I urge you to provide in statute the authority to regulate [credit default swap] products to enhance investor protection and ensure the operation of fair and orderly markets.''

Three days later, on Friday, September 26, SEC Chairman Cox repeated his warning and the need for SEC regulation: ''[I]t is critical that Congress ensure there are no similar major gaps in our regulatory framework. Unfortunately, as I reported to Congress this week, a massive hole remains: the approximately $60 trillion credit default swap market, which is regulated by no agency of government. Neither the SEC nor any regulator has authority even to require minimum disclosure. I urge Congress to take swift action to address this.''

Congress should have heeded that call and addressed the problem in this bill. This bill should have repealed the existing statutory prohibition and given the SEC general authority to regulate swap agreements. Such a provision would have closed the swaps regulatory loophole, while giving regulators and Congress additional time to determine what specific regulation might be appropriate. But neither this nor any other provision to regulate credit default swaps, or swaps in general, was included. It is a missed opportunity that we can only hope does not come back to haunt us. I hope the next Congress will address this issue as part of an effort to strengthen regulation.

A final provision in the bill that was added at the last minute may also come back to haunt the American public. Section 132 authorizes the SEC to suspend the generally accepted accounting rule that requires publicly traded corporations to report the fair value of their assets in their financial statements.

If it were to suspend this accounting rule, the SEC would strike a blow against honest accounting. Such suspension could essentially allow corporations to inflate their asset values by reporting something other than their fair market value—presumably allowing them to use instead historical data, mathematical models, best estimates—who knows? In a blink of an eye, corporations would have stronger balance sheets than they do now, essentially cooking their books with the approval of the SEC. It is an approach that echoes the excesses of the Enron debacle.

The bill seems to prompt the SEC to allow this fantasy accounting at the very time that financial institutions are leery of lending money to each other, under the mistaken impression that artificially inflated balance sheets will encourage lending. But allowing inaccurate financial reporting, with inflated asset values, will not increase confidence in the markets and it will not unlock credit.

As far as I know the SEC has never reached into the generally accepted accounting principles to suspend a particular rule, and I hope it doesn't start now. It would be a terrible precedent. And to the extent that including this provision in this economic stabilization bill was an effort to convey Congressional approval of that approach, I would like to make it clear that I oppose suspension of Financial Accounting Standards Board Rule 157. Honest accounting, using fair market values, is essential to resolving the financial disaster that now threatens our markets.

The financial mess we are in is the result of 8 years of inadequate regulation of U.S. financial markets by the Bush administration. It is long past time to strengthen market oversight. The regulatory gaps are everywhere. Unfortunately, due to the urgency of adopting this legislation, many much-needed reforms were simply not included in the rescue plan.

In 2004, the SEC voluntarily weakened the net capital rule that establishes capital reserves for securities firms. We need to restore the net capital rule that was weakened in 2004, and resulted in securities firms overborrowing. Another glaring problem is the absence of regulation of the more than 8,000 hedge funds that use American markets. They don't even have to register with the SEC. Still another problem is the weak regulation of credit rating agencies, including the failure to resolve the conflicts of interest inherent in these agencies' rating the securities of the firms that hire them. Weak accounting rules that allow companies to hide their liabilities and over-value their assets continue to undermine investor confidence. We must also take action, as I have already mentioned, to regulate credit default swaps and other derivatives that financial institutions have loaded up on with little or no disclosure, regulation, or oversight. The collapse of credit card securities is another crisis waiting to happen due to abusive practices, excessive interest rates, growing debt, and the lack of credit card reform. There was talk early on of this bill setting an expedited schedule for addressing these and other financial regulatory issues, but nothing was included in the bill.

I am pleased that the Senate has chosen to include in this legislation its tax extenders bill, which the Senate passed separately last week. With regard to tax incentives for advanced and alternative energy technologies, the extension of many critical existing tax incentives—including those for wind, solar, biomass, and alternative fuels production and infrastructure—will facilitate the development and commercialization of all of these technologies. I am particularly pleased about the inclusion of a new tax credit for plug-in hybrid and all-electric vehicles, which is essential not only to the development of these technologies but also to consumer acceptance and widespread use of these vehicles. In addition to the energy tax provisions, tax extenders, and the adjustment to the alternative minimum tax, the legislation before us now also includes the important provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act. Mental health parity is about basic fairness and equity. Individuals suffering from mental health illnesses deserve access to adequate and appropriate health care. I have spoken previously about the significance of addressing this issue, and I am glad that Congress is righting this wrong. I hope the House will accept this package.

In conclusion, I will vote for this rescue package with many qualms but with the hope that it will prevent even greater harm to our economy and hard working American families. It is clear that a financial regulatory overhaul

should be one of the first priorities of the next President and the new Congress.

Mr. WARNER. Mr. President, I rise today to share my views on the economic stabilization plan, as now amended by the Senate, and the precarious state of our economy.

The instability in the housing market, the soaring energy prices, and, more recently, the institutional failures within our credit and financial markets have all been serious blows to our economy.

We must decide between the risks of doing nothing, thereby subjecting the free market to the extraordinary level of unknowns of this critical situation, or the value of seeking legislation in the hopes to reduce the severity of serious consequences to almost every single aspect of our economy.

The bill before us contains several improvements to the House bill, improvements that have strengthened the measure. And, in my view, without some form of Congressional action now, the credit markets could freeze up. Without money flowing through our economy, car loans, student loans, mortgage lines of credit, could become inadequate. Job losses could follow and with it an increase in the number of Americans without health insurance. I could go on and on.

My careful deliberations on this legislation and my understanding of the economic problems facing our Nation lead me to believe that the consequences of not taking this action poses an ever greater threat to our economy and to all Americans.

For this reason, Mr. President, I intend to vote aye in support of the bill, as amended.

Mr. FEINGOLD. Mr. President, I will oppose the Wall Street bailout plan. Though well intentioned, and certainly much improved over the original Treasury proposal, it is deeply flawed and in effect asks the taxpayer to bear the burden of serious lapses of judgment by private financial institutions, their regulators, and the enablers in Washington who paved the way for this catastrophe by enacting measures removing the safeguards that had protected consumers and the economy since the Great Depression.

I regret Senate leadership has opted to add a number of unrelated measures to this package. Whether this was done as a sweetener to make the bailout pill go down a bit more easily or as a way to dispose of remaining legislation in one giant package, the end result is a package that is less straightforward and much more likely to spur doubts among voters about the bailout portion of the package. The bailout package was already a big enough question mark in the public's mind before this dubious maneuver was concocted.

I strongly support some of the unrelated measures being added to the bailout package. The mental health parity provisions are long overdue. And I was pleased to support the tax extenders, disaster tax relief, and mental health parity package when it was considered by the Senate just a few days ago. But that legislation could have proceeded on its own, without being attached to the emergency bailout bill.

There is one new provision being added to the bailout proposal that is not only relevant but makes good sense, and that is the language raising the cap on the size of an account that can be insured by the FDIC. I have supported raising FDIC insurance limits for many years. It should go a long way toward helping our community banks continue to attract and retain the deposits so critical to their ability to provide credit to consumers and Main Street businesses.

That brings me to the rest of the bailout measure. Though it is lacking in several areas, I will focus my attention on three critical defects in the legislation. First, it places the financial burden squarely on the average taxpayer. In fact, because it is funded through increased debt, the burden is actually placed on future taxpayers. Regrettably, no offset was seriously considered, and as a result, our debt is at risk of rising by another $700 billion. That is $700 billion more that must be paid off by our children and grandchildren in the form of increased taxes or fewer government services.

A second defect of the bailout bill is its failure to adequately address the housing crisis which underlies much of the financial market collapse. It does not include meaningful provisions to help individual homeowners stay in their homes. As foreclosures continue to increase throughout the country, including in Wisconsin, we need to ensure that any legislation actually helps actual homeowners, not just Wall Street banks and investment firms. This is not just a matter of fairness, though it is surely that. It is also common sense. It is the housing crisis that underlies the collapse of the credit markets. Without addressing those root causes, any bailout is less likely to succeed.

This does not mean that we should reward homeowners who took out bigger mortgages than they could afford to repay or who sought to flip homes for investments. But for the homeowners who were misled or who fell prey to predatory lending, Congress should do something to ensure that those homeowners have the ability to work with their servicers to modify their home loans. Unfortunately, this bailout bill is too skimpy on protections for the individual homeowner.

I am also disappointed that this bill does not include language that would allow bankruptcy judges to alter the mortgage terms of a homeowner's primary residence when that homeowner has declared bankruptcy. These sorts of loan modifications already can take place for vacation homes and other types of personal debt. It is troubling that the Bankruptcy Code would allow these modifications to take place on different types of debt but not a family's primary residence. Congress should address this issue and pass legislation to reform the Bankruptcy Code to permit loan modifications to owner-occupied primary residences.

It is true this bailout bill contains provisions directing the Secretary of the Treasury to implement a plan to ''encourage'' servicers to take advantage of various programs to minimize foreclosures. But unfortunately, the legislation seems to lack real teeth to ensure that these servicers actually modify the terms of nonfederally owned mortgages in order to prevent foreclosures. As we have seen with the Bush Administration's Hope Now Alliance, voluntary encouragement of loan modifications is not enough. While there are a number of factors contributing to the high rates of home foreclosures around this country, I am worried that unless Congress passes stronger legislation to do more than encourage servicers to modify the terms of these mortgages, we will continue to see high foreclosure rates plague our communities.

Finally, and perhaps most importantly, this legislation fails to include steps to reform the financial markets to ensure that we will not need another bailout in the future.

If the taxpayers are being asked to bail out Wall Street, the least we can do, the very least, is to ensure it will not happen again. Nothing in this legislation does that. Indeed, the administration has pushed hard to keep the bill free of the kinds of regulatory reforms we need to prevent this kind of financial crisis from occurring again. We are told that such reforms should be the focus of future legislation.

This is an old tactic. In my days in the Wisconsin State senate, we used to call that the ''trailer bill'' promise. Of course, after promising all would be made well in some future ''trailer bill,'' that mythical legislation never materialized, or if it did, it failed to accomplish what it was promised to do.

If anyone fell for the ''trailer bill'' maneuver once, I can tell you that they didn't fall for it a second time, and no one should fall for it now.

The bottom line is this, Mr. President. Any regulatory reform legislation considered separately will almost certainly be inadequate, and it might even do further damage, because of the influence of the financial industry. The last two decades have seen a string of almost uninterrupted victories by that industry in these halls. We have seen sound laws and regulations that protected consumers and the stability of the financial system repealed or weakened. Just 9 years ago, the icing was put on that deregulatory cake with the enactment of the Gramm-Leach-Bliley Act, a law which tore down what was left of the protective firewalls in our financial system. Little surprise, then, that without those firewalls the fire has indeed spread across the financial landscape.

We are paying the price for years of regulatory neglect, and the responsibility for that neglect is truly bipartisan. Both parties rushed to enact those measures; both parties have worked to ensure that financial derivatives—what Warren Buffett has called financial weapons of mass destruction—remained largely unregulated. Both parties worked to prevent the inclusion of even the most modest reforms in this bailout package. And I am concerned that any separate reform package we might consider in the next Congress will also be bipartisan in its inadequacies.

There is a chance that Members will have learned a costly lesson, and that meaningful reform may yet be enacted. But I am skeptical. The leverage for meaningful reform was this bailout package. Once that passes, the financial interests that have had their way in this building for the last two decades will be free to lobby against anything that may inconvenience them.

Mr. AKAKA. Mr. President, I support the Emergency Economic Stabilization Act of 2008. While this compromise does not include all of what I wanted, we must enact this legislation in an attempt to protect our credit markets and our economy.

The administration has not effectively informed the public on why this action is needed. The Bush administration has so little trust and has been such a bad example of governance, I understand why so many people are skeptical. However, this is a time, where due to instability and deterioration of the credit markets, we must act. In addition, I value the expertise of the Federal Reserve Chairman Ben Bernanke. I have enjoyed working with the Chairman during his tenure. I agree with his assessment that the situation is as dire as he believes.

Banks and investment banks have failed. Credit has become harder to get. Uncertainty and anxiety are high. When Chairman Bernanke and Treasury Secretary Paulson came to us and explained how tenuous the credit markets are, I understood that we must avert further deterioration. It is clear that we must try and prevent the absolute collapse of the financial services industry, which would likely lead to an even more severe economic downturn, by enacting this bill quickly.

Access to credit is becoming much harder to obtain. Fewer car loans are being approved. Small businesses are finding credit to be much more expensive and harder to obtain. The State of Hawaii recently delayed the sale of bonds due to the poor market conditions.

Our economy cannot function without access to affordable credit. Credit helps families buy homes or pay for their child's college education. Businesses rely on credit for operations and investments. State governments utilize credit to make much needed infrastructure improvements.

Without access to affordable credit, businesses will fail, more people will become unemployed, and our aging infrastructure will continue to deteriorate. We must enact this legislation to improve the likelihood of a swift economic recovery and try to avert a severe economic contraction.

The original Treasury proposal included no oversight and was not a well thought out proposal. It was offensive due to its lack of accountability and oversight provisions. The purchase and sale of assets has great potential to be abused and lead to corruption. We must make sure that this situation, which has been caused partially by greed, will not be exploited to further enrich the individuals or corporations that caused this situation.

By working together with the Chairman, we have included more oversight and accountably provisions to prevent abuse, ensure proper management, and reduce conflicts of interest. The legislation includes additional reporting requirements to Congress, mandated audits of the program by the Government Accountability Office, GAO, and the creation of a special treasury Inspector General to oversee the Troubled Assets Relief Program, TARP.

We will have to closely monitor this program through aggressive oversight by the Banking Committee and other relevant committees. The legislation establishes a financial stability oversight board to review and make recommendations regarding the exercise of authority by the Secretary of Treasury under this act.

Although the Secretary is able to waive provisions of the Federal Acquisition Regulation, FAR, the Secretary would need to provide Congress justification for the determination that there are urgent and compelling circumstances that make such waiver necessary. This justification must be reported to the Committees on Oversight and Government Reform and Financial Services of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Banking, Housing, and Urban Affairs of the Senate within 7 days of the request. Furthermore, if the Secretary waives any provisions of the FAR pertaining to minority contracting, the Secretary shall develop and implement standards and procedures to ensure the inclusion of minority contractors.

Furthermore, under this act, the Secretary will be required, within 2 business days of exercising his authority, to publicly disclose the details of any transaction. It also requires the Comptroller General of the United States to conduct ongoing oversight of the activities and performance of TARP, report every 60 days to Congress, and conduct an annual audit of TARP. It would also establish the Office of the Special Inspector General for TARP. This office would be required to conduct, supervise, and coordinate audits and investigations of the actions undertaken by the Secretary and would report quarterly to Congress. This is very important, as we have found with the Special Inspector General for Iraq Reconstruction, SIGIR, the SIGIR has been instrumental in ensuring oversight of our efforts in Iraq. Establishing a similar office to oversee TARP is a critical component to monitor the actions approved by this act.

Another important aspect of this proposal is that the authorization for TARP is graduated. The Secretary will be able to immediately access up to $250 billion. However, for an additional $100 billion, a Presidential certification would be needed. The final $350 billion could only be accessed if the President transmits a written report to Congress requesting such authority. However, should Congress pass a joint resolution of disapproval within 15 days of this additional authority, the additional authority given to the Secretary may not be used.

The Act also requires the Secretary of the Treasury to implement a plan to mitigate foreclosures and to encourage servicers of mortgages to modify loans through HOPE for Homeowners and other programs. The Secretary would also be required to coordinate with other Federal entities that hold troubled assets to identify opportunities to modify loans. I will continue to advocate for additional relief for homeowners so that people can stay in their homes.

Finally, we must reform the financial regulatory system to prevent future credit crises from occurring. A lack of effective regulation has contributed significantly to the current crisis. This legislation establishes a congressional oversight panel to review the state of the financial markets, the regulatory system, and the use of authority under TARP. The panel is required to report to Congress every 30 days and to submit a special report on regulatory reform prior to January 20, 2009. A comprehensive set of hearings will need to be conducted by the Banking Committee during the next session to determine what regulator reforms will be necessary to ensure that future Federal intervention of this magnitude will not be necessary.

In closing, this is not a perfect bill, but a necessary one to protect access to credit and ensure that working families can access mortgages and student loans. It is needed so that businesses can access credit to pay their expenses and fund expansion. This act is needed to help ensure that State governments can afford to finance necessary infrastructure improvements.

I thank Senator DODD for his leadership in helping craft this proposal. I also greatly appreciate the efforts made by Senators REID, SCHUMER, and REED. I look forward to continuing to work with them and the other members of the Banking Committee to oversee and improve the troubled asset program.

Mr. JOHNSON. Mr. President, it is no exaggeration to say that our economy is currently undergoing a period of extraordinary stress and volatility.

South Dakota has not seen the highs and lows of the housing market in the same way as other areas of the country, and South Dakotans exercised strong personal responsibility when it came to buying their homes, which is why this mess is all so frustrating.

It is very unfortunate that greedy, Wall Street investors brought us to this point, and that the regulators were asleep at the switch when we needed them most.

There is no question that something must be done to address this situation. But, throughout this process, I have made clear that while this may be a necessary evil, it cannot be a gift that puts undue burden on the American taxpayer.

I have struggled with this decision, as has the entire Congress. There is no question that there are reasonable people on both sides of this issue, and that the package before the Senate tonight is an improved version of the proposal the administration sent to Congress 2 weeks ago. However, despite the fact that this proposal has merits, I continue to have concerns that it lacks the necessary protections to fix the abuses that caused this problem, provides little direct assistance to American families, does not go far enough to cut the golden parachutes of irresponsible CEOs, and does not do enough to address American tax dollars benefiting foreign banks.

The inclusion of the tax extenders package, a bill which I wholly support, and increases in Federal deposit insurance are important additions, but they do not address the underlying risk the $700 billion package is to our taxpayers.

If we are to ask the American people to shoulder such a large and enduring burden because of the irresponsible and greedy actions of Wall Street then it is important that we get it right. This is closer, but it is not close enough. Consequently, I will vote against this bill tonight.

Mr. HATCH. Mr. President, I rise today to express my great concern about our economy. Time is of the essence. We must usurp the opportunity to be proactive, instead of reactive to our financial situation.

On Monday, my colleagues on the other side of the Capitol voiced the opinion of their constituents and many Americans. If we are going to spend up to $700 billion in taxpayer dollars, we need to reach out beyond Wall Street and into Main Street. Many people fear that the economy is facing a perfect storm. While this fear may be justified, we need to make sure that the next step we take, is a step in the right direction.

There have been several proposals discussed since the House rescue bill failed to pass. While there have been disagreements as to the type of plan, everyone agrees that something must be done immediately. Economists, professors, and government officials all are in concert that the consequences of inaction far outweigh the cost of a plan to stabilize the economy.

The Economist magazine pointed out that the current situation ''cannot last long without causing immense damage. Companies will be unable to raise new money, and more importantly, refinance old loans. Corporate bankruptcies will soar. Consumers will also find it difficult, or expensive, to borrow. The result will be a sharp downturn in demand that will push the economy into a deep recession.''

Scott Schaefer, a professor of finance at the University of Utah's School of Business, agrees that the ''idea of 'do nothing' isn't feasible—when banks fail they necessarily fall in the lap of the FDIC. So the losses from failed banks fall on taxpayers.''

Kristin Forbes, an MIT professor and former member of the President Bush Economic Counsel, has stated that while this may not be a perfect bill, ''the risks of not passing it are greater than passing it. If we wait too long, it might cost us much more.''

Hussan Ally, an economics professor at Ohio State University, sees the failure to act as resulting in ''the whole economy being in a depressed state for a long time. We're talking about the Great Depression all over again.''

I believe that one reason why the financial rescue legislation failed to pass in the House was because the American people are not convinced that this bill would help Main Street America or them personally. Along with this, I believe that many Americans fail to see the connection with the current crisis with our financial markets and their own future economic well being. To better illustrate how our failure to address this situation could affect everyday Utahns, and Americans everywhere, I want to discuss three hypothetical families.

First is Anne Wilson, a single mother of two high schoolers whom she hopes will be college-bound in a few years. Anne earns $55,000 per year as an executive assistant. Through hard work and sacrifice, she purchased her own home a few years ago. However, she recently refinanced with an adjustable rate loan. With the savings on her monthly mortgage payment, Anne set up a 529 college savings plan to begin saving for her children's education. Even though Anne knows the cost of education is rising rapidly, she has a plan to see that her children can go to college. With decent returns on her investment in her 529 account, combined with student loans and possibly scholarship money, she believes it will be possible.

However, our failure to provide a financial rescue plan could put Anne's dream of college for those kids in jeopardy. First, we can expect the securities in which she has invested through the 529 plan will be growing much slower or possibly not at all. In fact, there is a good chance that she will lose some of the money she now has invested. Second, education loans may not be available because of the credit crunch, which could grow far worse without the actions of the federal government.

Until the housing crisis, Anne had some equity in her home that she might have tapped to help with the college costs. But that equity has evaporated, and even if it had not, it might be very difficult to get a loan. Anne will certainly have to readjust her plan, or even abandon the hope of providing college for her kids altogether. Moreover, if interest rates continue to increase, which is likely in the absence of action on a rescue plan, her mortgage payments will go up, adding to her anxiety.

Next, let us consider, John Baker, a 64-year-old sheet metal shop supervisor, who hopes to retire in 2 years. For the past 25 years, John has put the maximum amount of money in his company's 401(k) plan. Over the years, this nest egg has grown into a tidy sum. In fact, combined with the Social Security he plans to receive and the earnings from a part-time job, John thought he was all set. Now, however, things have changed drastically. His investment portfolio in his 401(k) took a nosedive and is not likely to recover anytime soon.

Moreover, with rising unemployment, he is not as sure as he used to be that he can get the good part-time job he was planning on. All in all, John is having serious second thoughts about retiring and is wondering if he needs to keep working to age 70 or maybe beyond. Now a new worry is crossing John's mind. He heard his company's CEO say the other day that if business does not pick up, there will have to be some layoffs in his shop. Given his age and relatively high pay, John is nervous that he might be one of the first to be let go.

Finally, we have Amanda and Derek Peterson, who five years ago started a small flower shop. With Amanda's business background and Derek's artistic imagination, the business soon took off and they now have three locations and a total of 15 employees. The Peterson's had been talking of expanding the business to two more locations in a nearby city, but such a move would take an investment of at least $500,000. Based on their track record so far, getting a business expansion loan would not have been a problem before the financial crisis.

Now, however, Amanda cannot find a single bank that will extend them a loan. Moreover, they recently have had to rely on credit card financing for running the day-to-day operations of the business. Their new worry is that their credit card limit will not be reduced or that the interest rate does not increase. Tragically, instead of making plans to expand their business, the Petersons are now talking about which employees they will have to let go if business does not soon improve.

The families in these scenarios, as well as all Utah and American families, have a great deal to lose if we do not

act to build confidence and ease the credit crisis. Jobs and livelihoods are at stake.

This financial rescue is not a question of bailing out wealthy Wall Street bank managers who made bad investment decisions. It is about staving off a financial crisis on Main Street that threatens every one of us and our plans for our families, our hopes for the future, and the growth we all depend on to keep American what it is.

While the failed bill would have saved the banking industry, we could be more proactive in jumpstarting the economy. The failed plan was only a remedy to a crisis and not a cure for the economy. In order to cure the economy, we must spur job growth and investment. The most obvious and substantial way to achieve this is by providing tax relief to Americans. Let's put money back into the pockets of taxpayers.

That is why I have proposed including the tax extenders legislation for several reasons. First, it is long overdue. Businesses and individuals depend on these tax incentives in order to invest. Businesses invest in research and technology which in turn creates jobs. Individuals invest in retirement savings, college tuition, and health care costs.

Adding the AMT patch would protect 23 million additional American families from the clutches of the alternative minimum tax for this year. The research credit, which is vital to U.S. economic growth and job creation, and the energy tax incentives, which will also add many new jobs and help us move to energy independence. It is estimated that the solar and wind tax credits alone are predicted to create more than 116,000 jobs. I have also proposed other tax incentives aimed at encouraging private investment of troubled mortgage-backed security instruments.

In order to build more confidence in our banking system, I have suggested increasing the FDIC insurance limit. This insurance limit has not been adjusted since 1980 and increasing it will give individuals much-needed assurance that their deposited savings are secure.

We can do more to improve the economic situation. I do not believe the answer is providing one bailout over another bailout. I do not believe we should be handing out rebate check after rebate check. I believe we need to assist in slowing the inevitable route our economy is heading and providing incentives for investment and job growth. That is why I have proposed including the tax extenders, providing incentives to invest in mortgage-backed securities, and raising the FDIC insurance limit.

Instead of stabilizing the economy by only injecting cash into the system, we should reverse the direction the economy is headed by laying the groundwork for a strong economic future. Extending these tax credits will provide for more growth, innovation and job demand into the future.

I would like to now spend some time and drill-down into some of the finer points in this legislation and address some of the broader concerns raised by our current economic situation.

As I noted before, we should move ahead with the package to support the consumers of the financial sector's services—depositors, check-writers, credit card users and the merchants who rely on them, people who need to transfer cash or who need to borrow working capital for their businesses—not the shareholders or managers of the institutions in trouble. We must unfreeze the credit markets in a manner that lets depositors have the full use of their money, and that allows the check-writing and payments mechanisms to function. Otherwise, perfectly solvent individuals and businesses will not be able to pay bills or pay their employees, even though they have cash.

Toward that end, the Federal Reserve should be willing to let banks use the impaired securities as collateral at the discount window, at some fraction of their face value that represents a reasonable first guess at the real value of the assets. The banks will be responsible for repaying the Federal Reserve the amount they borrowed, whether the bonds turn out to be worth more or less than this amount later on. This will tide the financial system over until the Treasury purchase of the distressed assets gets under way.

The proposal before us would have the Treasury arrange for the evaluation and unbundling of the mortgage-backed bonds. The process will have to determine which of the loans are performing, and which are not. As the content and status of the mortgages' underlying assets becomes known, people will know what the securities are worth, and the market can then attract private capital to take them over.

Ultimately, banks that do not have enough capital to be able to function will either have to raise additional funds in the market, or the FDIC must step in to close them or arrange a sale or merger to a stronger bank.

I support the increase in the amount of deposits covered by the FDIC. While the uncertainty over the health of the banking system continues, I would like to go further and extend deposit insurance temporarily to all checkable deposits, including money market funds. All institutions so protected should be charged a fee, such as the banks pay now, to replace any losses the FDIC incurs.

The FDIC is allowed to borrow from the Treasury. That borrowing facility should be reaffirmed and enlarged as needed. The limit on the national debt will be increased under this bill, to enable the Treasury to purchase assets. If further increases are needed to allow for additional borrowing by the FDIC, they should be forthcoming. However, expansion of FDIC coverage might well discourage withdrawals from bank and money market accounts, and render the additional assistance unnecessary.

Other steps need to be taken in the short and long run. Urgent regulatory changes must be made to support this program. More broadly, Congress must insist that there be better coordination between regulatory, monetary, and tax policy in this country in the future.

We still need to come to grips with Fannie Mae, Freddie Mac, and the rest of the Federal agencies that intervene in the housing sector. Relying on the institutions that contributed to the financial chaos to clean it up does not strike me as the best approach.

Part of the current problem stems from the unfortunate interaction of two regulatory excesses: minimum capital requirements for financial institutions, coupled with a blind, rigid mark-to-market rule for valuing assets on a bank's books. The SEC and the Financial Accounting Standards Board, the latter a private entity, are discussing changes in these areas. In my view, they need to move at once to suspend mark-to-market rules and to ease capital requirements.

When markets malfunction, and trading in a class of securities simply stops, it is wrong to force institutions to pretend that assets have no value, when, in the longer term, they are clearly worth something close to their face amount. This is especially damaging when the forced write-downs cause the institution to fall below minimum capital requirements. They must then be closed or merged, often at fire sale prices. This further shakes confidence in the financial system, discouraging lending among banks, lowering asset prices further, and making more institutions run afoul of the regulations.

Down the road, Congress needs to hold hearings to review the damage that mark-to-market rules and capital requirements have done in the present situation, and what changes would be advisable. We also need to consider the process that generated these rules. We need to examine why these difficulties were not foreseen when the regulations were written, and whether some alternative arrangements for input by the Treasury and the Federal Reserve, as well as the business community, might produce better results in the future.

The rest of the economy is in urgent need of attention too. This package fails to address broader economic problems. The long economic expansion is aging, as the stimulus to investment and hiring enacted in 2003 has run its course. Investment spending is slowing, which would lower productivity gains and wage growth. We need to keep business fixed investment in new plant and equipment and commercial construction moving forward. That would help keep employment, productivity, and wages growing, and keep the rest of the economy healthy.

The 2008 stimulus package contained one progrowth investment incentive.

That was bonus expensing, immediate write-off of one half of investment in equipment undertaken by the end of 2008. We should extend that provision through 2010. Ideally, this reduction in the tax burden on creating and operating capital in the United States should be made permanent, as should the 15 percent tax rates on dividends and capital gains. These steps would raise real returns to people doing business fixed investment, leading to stronger growth. It would raise returns to savers and lending institutions as well, aiding in the financial recovery.

Congress has paid too little attention to the impact of taxation and regulation on economy activity and expansion. We have been content in recent years to dump responsibility for economic growth on the Federal Reserve, while we have let fiscal policy run amok, letting taxes rise and spending the proceeds several times over. Those few recent tax changes that were aimed at promoting saving, investment, and hiring are scheduled to expire. We need to remember that it is Federal tax and regulatory policies that primarily affect real economic activity. Lowering the tax and regulatory barriers to growth helps to expand the private sector. Government spending largely displaces private activity, and forces higher taxes that retard growth.

We have tasked the Federal Reserve with maintaining stable prices and low unemployment. In fact, an overly simulative monetary policy that generates inflation and weakens the dollar ultimately raises tax rates on investment, destroys growth and jobs, and injures people on fixed incomes. Any initial expansion of real output quickly decays into speculative bubbles in commodities, housing, or an inflation of the general price level. The Federal Reserve can hit both targets only by focusing on the goal of stable prices and a sound currency.

Unfortunately, beginning in the late 1990s, the Federal Reserve abandoned a decade of reasonably steady monetary policy, and indulged in a policy of go-stop-go. It eased excessively after financial disturbances and the Y2K panic of the late 1990s, contributing to the dot.com bubble. It tightened too much in 2000, contributing to the recession. It eased too much, and held short term interest rates too low too long, following the recession, contributing to the commodity and housing bubble, and the weak dollar. Now, we have seen the resulting imbalances force the economy to a stop.

We need to have a reconsideration of the Humphrey Hawkins Act, which gives the Federal Reserve a congressional mandate to pursue apparently conflicting goals. At least, they conflict if the conventional wisdom of the 1930–1980 period is applied, in which printing more money and encouraging a little inflation is considered beneficial, rather that counterproductive. We need to have a heart-to-heart discussion with the Federal Reserve about keeping to a stable policy, and keeping its eye on the long-term prize.

The country would have been better served if the 2003 tax changes had been enacted in 2001 in place of the Federal Reserve's aggressive easing in the 2002–2005 period. The correct policy mix, then, now, and always, is sound money, low tax rates at the margin on work, saving, and investment, and a sensible regulatory scheme in which the pieces do not conflict and the costs are kept to a minimum. That policy mix rescued us from the stagflation of the 1970s. It can do the same today.

Unfortunately, Congress deals with these issues on a piecemeal basis. The executive branch is divided into many departments and agencies that have their own narrow focus and push different agendas. Differing views on how the economy works add to the confusion. Somehow, we need to get some coordination and oversight of this whole process, and make certain that all the players understand the broad objective and the role that each must play to make it work. I intend to push for that in the year ahead.

Mr. BINGAMAN. Mr. President, I rise today in support of H.R. 1424, a bill whose two components represent an important investment in America's economy and whose passage is critical for ensuring our Nation's long-term prosperity. First, the bill includes the Emergency Economic Stabilization Act of 2008, which will ''provide authority and facilities that the Secretary of the Treasury can use to restore liquidity and stability to the financial system of the United States.'' Second, the bill incorporates the Senate substitute to H.R. 6049, which extends tax incentives addressing our country's most pressing challenges.

I have previously come to the floor, on several occasions, to explain why we must commit to passing the ''tax extenders'' legislation. And I was glad that on September 23, this Chamber approved H.R. 6049 on a 93 to 2 vote. In particular, the bill contains a robust package of tax incentives for clean, renewable energy and energy efficiency incentives that I, and many of my colleagues, have worked for since the beginning of this Congress. These incentives will enable us to become a more energy efficient nation, wean us off our dependence on fossil fuels, and reduce our greenhouse gas emissions. I continue to support the extenders bill, and I hope that including the extenders bill in the package that will soon come before us will increase the likelihood that the extenders will become law. But I will focus my remarks today on the Emergency Economic Stabilization Act.

While we can dispute the causes, there is no denying that our country is facing a credit crisis. Paralyzed by illiquid loans on their books, banks of all sizes and in all corners of our country have demonstrated reluctance to make loans to businesses, individuals, and other financial institutions. The fallout has been especially apparent on Wall Street, where we have witnessed the collapse or near-collapse of 3 of the 5 independent U.S. investment banks, alongside the failure or near-failure of many additional institutions that play a central role in our Nation's financial services infrastructure. But let's be clear: The pain extends far beyond Wall Street.

With lending frozen, Americans are challenged in obtaining financing for the most important transactions they undertake. The so-called TED spread, which reflects lending willingness among banks, has reached its highest level in 25 years. When banks charge one another high premiums, those costs are ultimately borne by those who seek to borrow. And as mortgage lending remains tight, fewer Americans are able to purchase homes. Similarly, the approval rate for auto loans has fallen from 83 percent last year to a mere 63 percent this year. More than 25 major lenders have either cut back in private lending to students or have cut off student lending altogether. And nearly 3 in 4 small business owners say they are having trouble finding loans. Without loans, many of these businesses will be unable to expand; others will fail.

So, too, are our States, counties, and cities feeling the impact, as they face skyrocketing costs to issue the bonds that pay for day-to-day operations and capital projects. And I note with great concern the credit crunch's impact on the Nation's utility infrastructure. Our public and private utility companies rely heavily on debt to finance infrastructure enhancements, but the volume of bond issuances by utilities fell 50 percent in the last quarter and 25 percent year-over-year. Being unable to obtain financing inhibits U.S. utility companies from providing low-cost and reliable electricity, water, and gas to the Nation's businesses and households.

Like my colleagues, I have heard from many who are concerned by the prospect of a Government intervention in the credit markets. But I have also heard from people across New Mexico about the tremendous pressures they are facing because of this crisis. In Ruidoso, a rural community more than 2,000 miles from Wall Street, the credit crunch left the municipal school district with just one bidder for a $3 million bond issue. Unable to delay the school repairs and expansions that these bonds will finance, the school board was forced last month to sell the bonds at far less than it would have received just weeks earlier. In Carlsbad, the Community Foundation's endowment has declined significantly with the stock market, prompting the Foundation to announce that it may scale back grant awards and scholarships. In northwestern New Mexico, along our States border with Arizona, the Navajo Nation's Budget and Finance Committee is now meeting to identify which projects to cut because of financial losses directly tied to the credit

crisis. And in the capital city of Santa Fe, Lehman Brothers' failure has forced the Transportation Department to refinance bonds for highway construction. The refinanced terms will cost our State an additional $78,000 annually in debt service payments.

Failing to address the lack of available credit threatens to create a downward spiral that will cripple our Nation's economy. Without access to credit, businesses cannot stay afloat and grow. As Federal Reserve Chairman Ben Bernanke testified last week, without a rescue plan, the country stands to lose an additional 3.5 million jobs over the next 6 months. And if we do not pass this legislation, we are sure to see further declines in our Nation's capital markets, impacting everything from families' college savings plans to workers' 401(k)s and pensions to university and hospital endowments. Finally, we need to act to prevent our entire financial services sector from suffering major disruption. The sector's gross liabilities have climbed from 21 percent of GDP in 1980 to 116 percent last year, much of which is owed from one bank to another. This, says the Financial Times' Martin Wolf, means that absent swift action to restore liquidity, ''collapse will follow.''

These challenges come at a time when America is hardly in the position to weather a storm. To take just a few indicators: One in eleven mortgages is delinquent or in foreclosure; credit card defaults have increased by 15 percent from 2001; the Nation has lost more than 600,000 jobs this year; and more than half of our States have moved to cut spending, use reserves, or raise revenues to address funding shortfalls.

Based on this evidence, I have concluded that Congress faces an imperative to act. Of course, in doing so, we must be responsive and politically realistic. The plan before us today does not represent the best possible solution—but it is a responsive and politically realistic one.

I did not feel the same about Secretary Paulson's initial plan, which he released on September 21. I had read his 3-page proposal to suggest that the Secretary was asking for what amounted to a $700 billion blank check, and I would have voted against that proposal. Fortunately, Congressional leaders have significantly enhanced the Secretary's 3-page proposal. I applaud the Chairmen of the Senate Banking and House Financial Services Committee for stepping in to move us in the direction of greater transparency, oversight, and protection for the American taxpayer. And I appreciate my colleagues who led the negotiations—particularly Senators DODD and GREGG—for developing a bipartisan compromise that I could support.

First, the plan minimizes risks to taxpayers, a critical priority given our dangerously high national debt of nearly $10 trillion. As CBO Director Peter Orszag has testified, the ultimate cost of the plan will be far less than $700 billion, for the simple reason that the Government will be able to sell the assets it acquires. But we cannot be sure the cost is zero, and that is why I have conditioned my support on ensuring that the Treasury receive equity in firms that benefit from an infusion of public funds. I applaud the inclusion of such a provision in this bill, as well as a requirement that the President propose legislation to recover any anticipated losses.

Second, we have added significant oversight and reporting requirements, including a Congressional oversight panel; audits by the comptroller general; and the appointment of an inspector general for the program. I have great respect for the Treasury Secretary, but feel that no single individual should ever be entrusted with such a herculean undertaking without oversight.

Third, participating companies would be required to limit executive compensation. Like so many Americans, I am troubled by reports of executives who walk away from failed financial service firms with stratospheric paychecks. This bill begins to address that justifiable concern.

We cannot afford to sit by idly and let this crisis take a further toll on the economy. But we also must be realistic about the limitations of this legislation: It is a band-aid intended to stop the bleeding. It will not address the inadequate regulatory framework that allowed this crisis to develop, and Congress must commit to enacting comprehensive reforms that will ensure we never again find ourselves in such a precarious position.

Ms. MIKULSKI. Mr. President, regrettably a rescue plan is needed. Greed on Wall Street and lax regulatory practices from this administration got us into this mess. Taxpayers are angry and so am I. Americans who played by the rules are being asked to pay the bills for those that didn't. Now, Congress must take steps to protect taxpayers, protect the economy, protect the middle class, and protect our way of life. I stand ready to do my part.

But if I am going to vote for this rescue plan I want reform and a real commitment: regulation, oversight, and strong enforcement to what's on the books not a blind eye to those who cooked the books.

Heart and soul I am a regulator and a reformer. Time and time again we've seen the consequences of a lax regulatory culture and wimpy enforcement. Well I've voted over and over for more teeth and better regulation—to strengthen the Consumer Product Safety Commission, to get rid of lead paint in toys and lead in the bureaucracy, to make sure the FDA doesn't approve dangerous drugs and stop predatory lending and flipping.

The bill that got us into this mess in the first place was Graham-Leach-Biley. It got rid of the distinction between investment banks and commercial banks. That lowered the bar on regulation and allowed for casino economics. I was one of nine Senators to vote against it. I said we were going to create an environment where we were creating whales and sharks and the minnows would be eaten alive. Regrettably, my prediction proved right.

I was told I was old fashioned. I was told ''Get with it Barb, we're in a global market.'' Yes, I do believe in old fashioned values: honesty and integrity.

We need to get back to basics. It is not only about this bill. From tainted dog food to toxic securities Wall Street acted like they were masters of the universe but now they took us into a black hole.

The U.S. is in a credit crisis and that crisis affects everyone. As Tom Friedman said today in the New York Times,

> We're all connected . . . you can't save Main Street and punish Wall Street anymore than you can be in a rowboat with someone you hate and think that the leak in the bottom of the boat at his end is not going to sink you too.

The credit crisis affects jobs, and what's going on in our economy. Someone who wants a car to get to work can't get a loan to buy the car and that means the car dealer won't get the money to restock inventory and that car factories might shut down. And it means that person might not be able to get to their job.

It is a chain reaction.

Even if you don't think you own stocks your pension does. Towns and cities use credit to build and improve schools. Local governments use credit to fix intersections, and build highways and bridges.

That single mother who wants to go to community college uses credit to invest in herself. She won't be able to get help unless we act.

We need rescue, reform, and retribution. No blank checks and no checks without balances. We also need a 21st century regulatory structure to protect taxpayers, help homeowners and guarantee no golden parachutes for the people who got us into this mess.

Senators DODD and GREGG and my other colleagues did a good job of improving the Bush plan. This bill is much better than the Bush plan and goes to my principles. It protects taxpayers, has oversight and transparency, makes sure taxpayers benefit when economy improves, and it says no to golden parachutes.

However, I am disappointed in what is in here for homeowners. This was an opportunity to help homeowners, and show them whose side we were on.

There is some help but not enough. More people will get out of subprime mortgages and into FHA's. This bill should have said that families could have a work out plan to save their home. But unfortunately bill goes all out to help Wall Street and only halfway to help homeowners.

Many of these homeowners were hurt by predatory lending and deceptive advertising. These fraudulent lenders said let the good times roll. Well the good times are over and it's time for heads to roll.

That is why I went to work getting money in the Federal checkbook for the FBI to do mortgage fraud retribution.

The FBI's mortgage fraud workload increased 200 percent in 3 years. At April 16, 2008, at my CJS hearing, I asked FBI Director Mueller, ''How have cases increased? What do you need?'' He answered that he needed more funding for agents dedicated to mortgage fraud investigations.

So I provided $10 million to hire at least 25 additional FBI agents dedicated to investigation of mortgage fraud. So I'm coming after the scam artists and predatory lenders and won't stop until they get what they deserve.

I have great reservations about this legislation but I will vote for this bill. I don't think it goes far enough. I wanted more help for homeowners and more teeth in the oversight.

Is this a good bill? It is a lifeboat bill. We have no guarantees but it's a step we have to take. It's an immediate crisis and we have to restore confidence and restore stability so we save jobs and save our economy.

It will deal with the credit crisis. If we do not deal with the credit crisis, I believe that the Main Street economy will have to pay the bill for the bailout and pay the bill again in lost jobs, the ability to get along and in shrinking retirement and pension. So I will vote for this bill. But I heard the taxpayers loud and clear.

Mr. BURR. Mr. President, I rise today to speak on the financial crisis threatening our Nation. Like my fellow North Carolinians, I am very concerned and angry about the circumstances that have brought our country's economy to the brink and that now necessitate the Congress to act. While pointing fingers is easy, the grave fact remains that we are facing one of the most significant economic challenges we have ever confronted—one that threatens our very way of life.

I have heard from thousands of hard-working citizens who have spent their entire lives acting responsibly, only buying a home that they could afford, working hard to put food on the table, saving money to send their kids to college, and only borrowing responsibly when necessary. They are angry, and they have every right to be. I am angry, too. It is wrong and it is disgraceful that responsible, hard working people of this country are now being asked to step in to fix a mess caused by the irresponsible and greedy behavior of others. Much of what got us to this point was not only reckless behavior on Wall Street but also the fact that many people took out risky mortgages that they simply could never afford. A boom of easy money has led to a bust, which has now resulted in a collapse of housing markets all over the country and a potential collapse of our system of credit—the very lifeblood of our economy.

Let me be clear—this crisis threatens the financial security of each and every one of us—whether you have a retirement savings account or a pension, own a home, want to buy a home or a car, or have a savings account for your child's education or want to borrow for college. The current financial instability, if left unchecked, threatens the ability of small businesses and family farms to meet their payrolls, purchase fuel, and pay for their day-to-day business operations as their credit lines dry up and disappear. While many believe that this action is a bailout of Wall Street, the fundamental reason the Senate is compelled to act today is to stop an economic collapse of Main Street. Every day that goes by, our financial system grinds closer to a complete halt. We must act to get to the roots of this financial turmoil and get our financial system moving again.

As the health of our financial system has rapidly deteriorated, many banks have restricted or stopped lending altogether. Families, businesses, and local governments have found it harder to borrow money, money that is needed just to keep daily operations going. Without access to credit, businesses can't borrow money to buy equipment needed to produce their products. Cities and towns can't borrow money for water and sewer systems, roads, or other critically important community projects.

Over the past 2 weeks, I have heard from small businesses, cities, and towns in North Carolina that have been stranded by this economic crisis—businesses that can't get their standard lines of credit to operate and whose loans have been called. I have heard from counties throughout my State recounting how this national financial crisis is making it impossible to borrow from banks to pay for their schools and other critical projects. These businesses and local governments aren't folks with poor credit ratings or folks who have been late on or missed their loan payments. These are folks with strong credit histories who are the innocent victims currently caught up by our current financial crisis, and these are the honest, hard-working folks this legislation before us is meant to help by getting credit, the necessary lifeblood of our economy, flowing again.

Whether we like it or not, we now face a financial crisis that is unprecedented in scope, with repercussions so far-reaching that no American would be immune. So we now face a choice. We could do nothing and just let our entire country—which depends on credit to function every day—seize up and come to a halt. We could do that, but history has painfully shown us what happens when you do nothing and credit dries up. America felt this during the Great Depression. The result was a 40-percent foreclosure rate, massive unemployment, and years of economic hardship for millions.

Like many of my Republican colleagues in Congress, I cannot stand the notion of supporting something that violates my fundamental belief in free enterprise, the freedom to succeed, and the freedom to fail. That we have to consider this legislation at all marks a sad day in our Nation's history. But as a public servant, and as an elected representative of the Great State of North Carolina, I do not believe I can sit by and let this country fall into the worst economic state that it has ever faced. The risks of just rolling the dice, doing nothing, and letting the chips fall where they may are, in my opinion, too high. A working credit system is core to a strong economy. The bipartisan bill before us is our best chance, and perhaps our last chance, to avert this looming crisis.

While the need for this legislation is regrettable, I am heartened that the plan before the Senate includes very important protections for taxpayers, limits on executive compensation for Wall Street, and strong measures to ensure proper oversight and accountability. Under the legislation:

Those companies that sell their bad assets to the Federal Government must also provide warrants—a type of ownership stake—so that taxpayers will benefit from any future profits. If the program ends up making money for taxpayers, that money must go toward paying down the national debt. If the program loses money for taxpayers, then the President will be required to submit a proposal to Congress for recouping those losses from the financial institutions.

Corporate executives will have their golden parachutes clipped and any unearned corporate bonuses must be returned. In addition, companies will pay taxes on executive pay and, in many cases, must limit executive pay.

The FBI has already begun preliminary investigations into criminal wrongdoing by the management of 26 financial institutions, including Fannie Mae, Freddie Mac, AIG, and Lehman Brothers. The FBI is also pursuing over 1,400 mortgage fraud cases nationwide. This legislation will beef up that enforcement.

Savings deposits will be insured up to $250,000 by the Federal Deposit Insurance Corporation, FDIC, up from the $100,000 limit currently in place. This additional protection is very important for retirees, near retirees, and small businesses so that they know their savings and basic business operation accounts are indeed safe.

An oversight board will be established to monitor the Treasury's activities. In addition, a new inspector general will be appointed to protect taxpayers against fraud, waste, and abuse.

Rather than giving the Treasury all the funds at once, the legislation gives the Treasury $250 billion immediately and then requires the President to certify that additional funds are needed. Congress will have the power to deny those funds.

After we weather this crisis, and I am confident we can, I look forward to working with my colleagues in the Congress to improve the regulatory structures that govern our financial system. As this crisis makes abundantly clear, many of our regulations

to deal with financial markets are outdated. It is also important that we prosecute any corporation or individual who broke the law and contributed to this mess to the full extent possible. We must never find ourselves in this situation again and never again place American taxpayers and their livelihoods at risk.

Ms. COLLINS. Mr. President, I rise to discuss the energy tax provisions of Senator DODD's amendment to the Emergency Economic Stabilization Act. These provisions were included in the tax extenders, H.R. 6049, passed by the Senate last week. I strongly support these provisions, and I am pleased that they are included in the financial rescue plan we are voting on today.

The United States needs a balanced, comprehensive national energy policy that addresses our immediate problems and future needs without compromising the health of the environment. In fact, I believe we must embark on a national effort to achieve energy independence by 2020. This effort will require a stronger commitment to renewable energy sources and energy efficiency and conservation.

Some of the best ideas about what we need to do now and over the next 5 years to address our Nation's energy crisis are coming from people in my State of Maine. A professor at the University of Maine has a plan for clean, renewable offshore wind power to supply as much as 40 percent of the Nation's energy. Offshore wind production that is out of sight from land could provide an affordable source of renewable energy directly to population centers on each coast while supplying thousands of new jobs. In addition, it would expand Maine's electricity supply so that people could transition away from using oil.

Maine is also well positioned to take a leading role in the development of this tidal power. The U.S. wave and tidal energy resource potential that reasonably could be harnessed is about 10 percent of national energy demand. In Maine, a consortium of the University of Maine, Maine Maritime Academy, and industry is poised to become a key test bed site for tidal energy devices.

Maine also has a large supply of wood that could be used as an energy source. These stoves dramatically reduce both indoor and outdoor air pollution, use up to 50 percent less wood for the same amount of heat and utilize one of Maine's renewable resources. I am pleased that the energy tax bill includes a provision I authored to provide a $300 tax credit for replacing an old, inefficient wood stove with a cleanburning wood or wood pellet stove.

This credit will be an important tool to help people in my home State and throughout the Nation find affordable ways to heat their homes this winter. This legislation provides a credit for home heating systems which have thermal efficiencies greater than 75 percent and which use renewable, biomass fuels. Efficient, clean-burning biomass equipment currently is available that can achieve this thermal efficiency, and I believe that equipment should and would be eligible for tax incentives in this amendment.

Mr. President, again I am pleased that we are discussing renewable energy and energy efficiency tax credits today. I look forward to seeing these credits signed into law soon.

Mr. BUNNING. Mr. President, I rise to say a few words in response to what I have heard on the floor of the Senate today. Many Senators have stood up and spoken in favor of the Wall Street bailout bill we will be voting on later tonight. That is their right, but they are only telling one side of the story.

I have heard a lot about changes made to this bill in the last few days, but make no mistake about it, this is the same bailout that the House of Representatives rejected Monday afternoon. The only thing that is different is the packaging. The failed House bill has been attached to a tax bill which the Senate has already passed overwhelmingly, a mental health parity bill which is broadly supported in the Senate, and an increase in FDIC insurance limits. In other words, a few sweeteners have been added to buy off a few more votes. But the bailout remains the same.

Now, let me say a few words about some of that lipstick. Though the tax extenders bill does not have everything I hoped for in it, I strongly support it and voted for it just a few weeks ago. I also have cosponsored the Senate version of the mental health parity bill. I still support both and want to see them become law. I am disappointed that I am being put in a position of having to vote against those bills.

I have been clear since Secretary Paulson proposed his plan that I thought it was a bad idea and would not work. I still think so, and apparently so does a majority of the House of Representatives. The House rightly rejected the bailout we will be voting on tonight because it is a bailout of Wall Street at the expense of Main Street. The American people are outraged by this proposal, and all any Senator needs to do is stand around their front office and listen to the phone calls to understand that.

Now, about the proposal itself, I have no confidence it will work, and the only people I have heard that have confidence that it will work are the Treasury Secretary and the Chairman of the Federal Reserve, the people who proposed it in the first place. Even Senators supporting this bill say things like ''I hope this will work'' or ''we have to do this because nothing is not an option.'' I say that $700 billion is a lot of money to gamble on hope, especially when there are other options.

Sadly, no other options have been considered. Secretary Paulson and Chairman Bernanke both admitted they did not consider other proposals. Congress certainly has not considered any other option. Why not? Because we are told there is not time and we have to do something now. Well, here we are, 2 weeks after the initial proposal, and the sky has not fallen.

Now, I recognize there are real problems in our financial markets and those problems could hurt the overall economy and average Americans. As I have said on this floor as recently as last week, we have both policy and structural problems in our financial system that need to be addressed. Those problems are largely a result of bad monetary policy, bad governmental policies, and bad oversight by regulators. But these problems cannot be fixed by just throwing money at Wall Street as we run out the door to go home and campaign. They require serious thought and serious work.

While the problems in our financial markets have been a long time in the making and cannot be solved overnight, the freeze in the credit markets and the panic that we are seeing now came about rather quickly. That is because Secretary Paulson and Chairman Bernanke set expectations for Government intervention when they bailed out Bear Stearns in March. The markets operated all summer with the belief that the Government would step in and rescue failing firms. Then they let Lehman Brothers fail, and the markets had to adjust to the idea that Wall Street would have to take the losses for Wall Street's bad decisions, not the taxpayers. That new uncertainty could be the most significant contributing factor to why the markets have lost confidence. Even worse, to sell the public and Congress on this Wall Street bailout, the President, Secretary Paulson, and Chairman Bernanke have pushed the media and public to the edge of panic by telling everyone we are staring at the second coming of the Great Depression.

But this bill is not going to solve those problems. I am not alone in my concerns about this bill. Last week, I entered into the RECORD two letters from nearly 300 economists who said it will not work. I have also heard from many market participants that this program will not work. In fact, the only way anyone has any confidence that this plan will work is if the Government overpays and gives a windfall to the banks and others selling their bad investments. But that is not just dishonest, it is also not even the most efficient way of getting funds into the institutions.

This bill also has no requirements that the institutions take their newfound cash and use it to lend to Main Street or anyone else. They are going to put that money to the use they think is in their best interest, not in the best interest of the average American.

Now, I do support taking action to address the mess Government created. To restore confidence, instead of giving

the Secretary $700 billion, we should send a signal that we are serious about this and stay in Washington until we have a real solution. One way we could do that is to give the Secretary a far smaller amount of funds to use to unfreeze the markets and take a few weeks to hold some hearings, meet with experts who might have different ideas, and find a way to fix what is broken. We certainly should not just rely on the opinions of the people who created this mess and stand to benefit the most from this proposal.

There are plenty of other ideas that are worth exploring but, unfortunately, have been ignored. We could allow companies with earnings overseas to bring that money back to the United States tax free if they invested it in the same troubled assets the Secretary wants to buy. Rather than buying toxic paper, we could create a system to support the top-quality, AAA-rated, debt market, which must begin functioning for the credit crunch to end. We should also immediately put in place policies that will encourage economic growth, such as energy exploration and development and tax policies to encourage job creation. We also need to address the regulatory and structural problems I mentioned earlier. I am sure there are plenty of other ideas that could help as well. My intent here is not to list everything that needs to be done but to point out that there is a lot that should be considered and is not even being discussed.

Finally, I want to say that I hope for the best with this bill. I am going to vote against it, and I hope that I am wrong. Even if this bill passes and becomes law, I am not going to give up on looking for the right long-term solutions to our problems.

Mr. CARDIN. Mr. President, we are here tonight to take emergency action to rescue our Nation's economy. Before us is a compromise measure—the product of an intense process that Congress has entered into reluctantly. It is the result of negotiations between Democrats and Republicans, between House and Senate, and between Congress and the Administration. This evening, as we prepare to vote, Americans still have many questions as to how the bill's provisions will be implemented and what the eventual impact will be on our economy. We remain stunned that the greed of a few necessitates sacrifice from all of us. For these reasons, I understand the opposition of so many Americans to the news of this bill, one of whose goals is to restore stability to the markets. I have heard from many Marylanders who have expressed to me their anger, a sentiment that I share.

This vote is one of the most unpleasant I will have taken during my 22 years in Congress, and I come to the floor with anger and sadness, but also with determination to do what is right for this country.

This is not the bill that I would have written, but it represents our collective deliberations. Our economy is in dire straits, and our time is limited. Not because of a pre-determined adjournment date, but because markets across the world are looking to the United States hour by hour for action that will restore the world's confidence in our economy, and every day that we delay diminishes that confidence.

This crisis was created in large part by the Bush administration's hands-off approach to financial institutions. Over the last 8 years, we have seen unemployment rise, real wages and property values plummet, budget and trade deficits soar, and a burgeoning dependence on foreign capital and foreign energy.

At the start of 2001, we had projected surpluses of $5.6 trillion over the next decade. But in the last 8 years, the administration's economic policies have squandered those surpluses and produced annual deficits that now near $500 billion. But what was occurring out of the view of most Americans created the tipping point. Deregulation of Wall Street led to a new paradigm in which greed was rewarded. Financial institutions were incentivized to create complex financial shell games that enriched the few while hiding the true cost to this Nation of too-easy credit and ill-advised mortgages. And so, today, the first day of fiscal year 2009, we are faced with a catastrophic economic situation—tightening credit, shrinking 401(k) plans and money market accounts, a wildly lurching stock market, a drastic restructuring of major American corporations, banks that will not lend to other banks, and the lowest levels of consumer confidence in our Nation's history.

Nearly 2 years ago, I took the oath of office for the U.S. Senate. It reads in part, ''I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic.'' In the closing days of this administration, our enemy presents in the form of a severe crisis of confidence in the American economy—one of the gravest that our Nation has ever faced. No nation can continue to thrive without solid economic footing, and so it is imperative that we act in the best interest of the United States and do our best to resolve this crisis. This measure, crafted under the leadership of Majority Leader REID, Senators DODD and GREGG, and many others in this body, as well as our colleagues in the House, is the result of that effort. I believe it is an honest and responsible attempt to bring near-term stability to our situation.

If we do not act, we are jeopardizing far more than the future of the financial district. This is not about the balance sheets of a New York brokerage house or even a few national banks. Rather, it is about the balance sheet of every American family. If we do not act, we will endanger Americans' ability to secure an affordable car loan, mortgage, or college loan. We will jeopardize the retirement savings accounts of near-retirees who hope to leave the workforce in the next few years, and families trying to build a secure future for the years to come. More than 50 percent of families have a stake in the markets—either through mutual funds, 401(k) plans, TSPs for Federal employees, or stocks.

If we do not act, we will place at risk our small and large businesses—access to loans is critical to their ability to survive and thrive, and if credit is unavailable, these businesses will be unable to make payroll, stock their shelves, or keep their doors open. With that in mind, many Members, including myself, awaited the administration's proposal, which they submitted to Congress on Saturday morning, September 20. In that three-page proposal, President Bush asked Congress and the American taxpayers to follow him into uncharted territory and restructure our entire financial system. The Treasury Department proposal asked Congress for unprecedented authority to spend $700 billion over the next 2 years to purchase distressed mortgage-related assets to provide stability to financial markets and our banking system. The proposal sought authority, ''without limitation,'' to enter into contracts, to designate financial institutions as financial agents of the Government, and to establish ''vehicles'' for purchasing mortgage-related assets and issuing obligations, among other things. Further, the proposal stipulated that any actions the Secretary takes ''may not be reviewed by any court of law or any administrative agency.''

Brevity may indeed be the soul of wit, as Shakespeare wrote in Hamlet. But it shouldn't be the ''soul'' of a legislative proposal—or the sole legislative proposal—to shore up a badly faltering economy.

According to the administration, the role for Congress—a coequal branch of Government—was to authorize the enterprise and then wait for semi-annual status reports from the Treasury Department. We were also told to pass it right away, without amendment, because each day we delayed, the markets would continue to crumble.

The administration wanted a bill to bail out Wall Street; Congress is poised to pass a bipartisan bill that will protect the American economy, begin to reform financial practices, and require the strong oversight that has been so lacking during this administration.

It is our duty to protect the taxpayer, ensure transparency and accountability in our financial systems, and to make improvements in their interactions with American taxpayers and the Federal Government.

This bill will provide up to $700 billion to the Secretary of the Treasury to buy mortgages and other assets that are crippling financial institutions across the Nation. EESA also establishes a program that would allow companies to insure their troubled assets.

EESA requires the Treasury to modify troubled loans—many the result of

predatory lending practices—wherever possible to help American families keep their homes. It also directs other Federal agencies to modify loans that they own or control. Finally, it improves the HOPE for Homeowners program by expanding eligibility and increasing the tools available to the Department of Housing and Urban Development to help more families keep their homes. I am pleased that this evening Chairman DODD and I were able to clarify the authority for Treasury to purchase low income housing tax credits under this legislation. This authority will allow Treasury to keep liquidity in the market for these critical tax credits and thus provide for the continued development of affordable housing nationwide, at little or no additional cost to taxpayers. However, I am disappointed that in negotiations, the President rejected our efforts to provide more extensive help for homeowners through the bankruptcy courts. With default rates and foreclosures at the highest levels in our history, I look forward to the next Congress during which we must do more to protect Americans' homes.

This bill also requires companies whose assets are purchased by the government to provide warrants so that taxpayers will benefit from any future growth these companies may experience as a result of participation in this program. The legislation also requires the President to submit legislation that would cover taxpayer losses resulting from this program by charging a broad-based fee on all financial institutions. I am disappointed that requirement for the financial institutions responsible for these losses to pay was not included in this legislation.

This bill does include provisions to limit executive compensation. Executives who made catastrophic decisions should not be allowed to unload their toxic assets on working American families and still make high salaries and bonuses. Under this bill, some companies will lose certain tax benefits for salaries in excess of $500,000 and their bonuses and so called ''golden parachutes'' will be prohibited for their top five executives. The bill also requires recovery of bonuses that are paid based on statements of earnings and gains that are later proven to be ''materially inaccurate.''

Rather than giving the Treasury all the funds at once, as the original Bush plan stipulated, this legislation gives the Treasury the authority to spend $250 billion immediately, and requires the President to certify that additional funds are needed—$100 billion, then $350 billion subject to Congressional disapproval. The Treasury must report on the use of the funds and the progress made in addressing the crisis.

I joined Finance Committee Chairman BAUCUS' push for the creation of a special inspector general to oversee this effort. The magnitude of both this bill's pricetag and the task assigned to the Treasury Department are such that rigorous, independent efforts are necessary to prevent waste, fraud and abuse. This provision is a necessary element of the bill, and it will lead to a better, more responsibly executed program.

Over the past week, as anxiety about our economy has heightened and banks have collapsed, Americans have begun to openly consider the so-called ''Serta Option'' for hiding their cash. That's why I am supportive of the provision added this week to increase temporarily the FDIC limits from $100,000 to $250,000. It is more important than ever, during these times of uncertainty, to instill confidence in every American who has a savings account that their hard-earned deposits are secure.

As I said at the outset, Americans are angry that we are in this position. The vast majority of Americans acknowledge that something must be done. They want action from this Congress, and by last Tuesday morning, after the largest 1-day point drop ever in the Dow Jones average, most recognized that our inaction is not an option.

I will vote for this bill, and I urge my colleagues to join me in answering the call for urgent action. In three short months, the 111th Congress will convene. I will continue to push for the types of reassurances that America's communities are looking for, not just those that our financial markets seek. This is a time of crisis for our country, but it is also a time of opportunity; an opportunity to ensure that we never again leave our Nation's families vulnerable to economic meltdown while corporate executives walk away with millions of dollars; an opportunity to protect working Americans' investments in their homes and communities; an opportunity to ensure that small businesses can access the credit they need to prosper and expand. I ask my colleagues to join me tonight in this vote, and in January, when we take on the longer and even more challenging task of getting our country back on track.

Ms. SNOWE. Mr. President, although long overdue, I am very pleased that the Senate has incorporated a bipartisan agreement to renew expiring tax provisions in the Emergency Economic Stabilization Act of 2008. These tax provisions are critical to families across America, and provide incentives for the production of clean energy and conservation that could create 100,000 new jobs. As working families are struggling to put food on the table and gas in their cars, I am especially grateful that the package assists the least fortunate among us by including a proposal to lower the income threshold for the refundable child tax credit that Senator LINCOLN and I have championed.

I would especially like to thank Senators BAUCUS and GRASSLEY as well as their staffs for working days, nights, and weekends in forging this agreement. These two leaders exemplify the bipartisan tradition of the Senate and how this body can get its work done if Members are willing to reach across the aisle to find the middle ground.

Unfortunately, partisan gridlock too often ties the hands of even these Senate stalwarts. I find it hard to fathom that, in what could potentially be the closing hours of this Congress, we are only now moving a step closer to enacting this legislation. At a time when renewable energy projects are being mothballed because of this uncertainty and Americans are demanding action on energy policy, I cannot believe that we have been abrogating our duty to serve the American people by our inaction on this time-sensitive issue. It seems to me that these tax extensions should have been the low-hanging fruit that we could have done much sooner.

We could have unleashed sooner renewable energy projects creating jobs, provided targeted tax relief to low-income working families struggling to pay the high cost of food and fuel, encourage an infusion of capital into rural and urban communities, provide tax incentives for retail businesses looking to grow their business, and help keep the jobs associated with film production within our borders.

This is occurring at a time when our economy teeters on the brink of recession; when we have seen the collapse of a banking institution founded in 1850, when the U.S. government has seen no other way but to take over major financial institutions; when unemployment surged to 6.1 percent last month—the highest rate since 2003; when gasoline at the pump is near $4 a gallon; when oil costs remain at $100 per barrel; and when foreclosures have hit historic levels, do we really want to say that we can't extend a renewable energy tax credit that caused 45 percent growth in wind energy production last year and that we can't adopt energy efficiency tax credits that create necessary incentives to reduce energy demand?

Consider the economic impact of inaction. Dr. Mark Cooper of the Consumer Federation of America estimates that from 2002 to 2008 annual household expenditures on energy increased from about $2,600 to an astonishing $5,300! In my state of Maine, where 80 percent of households use heating oil to get through winter, it's going to be even worse.

Last year at this time, heating oil prices were at a challenging $2.70 per gallon—for a Mainer who on average uses 850 gallons of oil, that is $2,295. With current prices at $3.80 per gallon, the cost per Mainer to stay warm will be at least $3,230, and that is not even considering gasoline costs. That is the difference between a burden and a crisis.

Now is not the time to allow energy efficiency tax incentives and the renewable production tax credit to expire. But that is what we are doing unless we pass this bipartisan package

today. Energy efficiency is by far the most effective investment that our country can make to address the calamity of an absent energy policy. Jerry Howard with the National Association of Home Builders states:

> Our members build homes that are significantly more energy efficient than those of a generation ago. But in today's economic climate, home builders need incentives to spur them to even more action.

It constitutes a dereliction of duty if Congress allows energy efficiency tax credits to expire. In fact, some tax credits already have expired, and as a result, there are currently no incentives to purchase efficient furnaces. At a time when Americans are worried about paying heating bills this winter, we must provide the assistance to encourage investment in energy-efficient products that will reduce our collective demand for energy, and save Americans money.

Yet we have jettisoned a $300 tax credit to purchase high-efficiency oil furnaces, which would produce more than $430 in annual savings for an average home—according to calculations based on Department of Energy data and recent home heating prices. We have sidelined an extension of a tax credit for highly efficient natural gas furnaces that would save an individual $100 per year. However, this tax credit ended at the beginning of this year—when oil prices began their historic rise.

That is why it is so critical that the extenders package that earlier passed the Senate included a significant portion of my EXTEND Act, which I have championed with Senator FEINSTEIN. This legislation, supported by a sizeable group of businesses and environmental advocates, would revolutionize our building infrastructure and save our country expensive energy. My legislation included a long-term extension for energy-efficient commercial buildings, as well as an extension for energy-efficient residential buildings and new homes, investments that will reduce energy consumption for generations. This legislation would save our country $25 billion annually in utility bills by 2018.

I also wish to highlight the important provision that provides a tax credit for biomass stoves, a proposal initially introduced by Senator SUNUNU. When the costs of other heating sources are excessively high we should be providing options to consumers. I look forward to publicizing this tax credit to ensure that it can be utilized by homeowners this winter.

And for businesses that are competing against countries that subsidize oil, the situation is untenable. Earlier this summer, Katahdin Paper Company in my State announced that the cost of oil used to operate its boilers has caused the company to consider closing the mill's doors. Talks are underway to find alternative solutions to restart the mill's operations and revive its 208 jobs, but it is undeniable that these jobs hang in the balance because of unprecedented energy costs.

One remedy would be to create more renewable energy jobs that would help right a listless economy and boost investment in a secure energy future. Indeed, more than 100,000 Americans could have been put to work this year if clean energy production tax credits had been extended. We earlier could have unleashed renewable energy projects creating jobs, but instead, projects currently underway may soon be mothballed. Rhone Resch, president of the Solar Industries Association, says ''It is scaring away investment, just as our industry is beginning to get a toehold.'' Can you believe that? We are actually ''scaring away investment'' during these unprecedented economic times. Gregory Wetstone of the American Wind Energy Association said recently:

> If Congress fails to act, it's a real blow to renewable energy. It means that fewer wind turbines will be used to generate pollution-free power in the United States.

Clean energy incentives for energy-efficient buildings, appliances, and other technologies, as well as additional funding for weatherizing homes, would similarly serve to stimulate economic activity, reduce residential energy costs, and generate new manufacturing and construction jobs. It is irresponsible to allow a bright spot in our economy, the renewable energy industry and energy efficiency industries, to falter when the output of these industries is so essential to the future of this country.

Extending these expiring clean energy tax credits will ensure a stronger, more stable environment for new investments and ensure continued robust growth in a bright spot in an otherwise slowing economy. I am encouraged by the bipartisan agreement that is before us today. We must not lose yet another opportunity to raise the bar for future domestic energy systems and energy efficiencies, benefiting our economy, our health, our environment, and our national security. I hope that the House of Representatives will quickly take up and pass this package.

Some may argue this is an election year and we must lower our expectations for getting things accomplished. I could not disagree more. And I met a remarkable woman from Maine earlier this year who could not disagree more—because time is quickly running out on this Congress to take necessary steps to help Americans like her. She told me she had three jobs—the first to pay for the mortgage, the second to pay for heating oil, and the third to pay for gas to be able to drive to her other two jobs—and this was back in April.

Solving this crisis is not about party labels. It is not about Republicans or Democrats—or red States or blue States. It is about what is good for America, and what unites us as Americans under the red, white, and blue. We must move in that direction as a country.

But, there is much more in this package beyond energy tax incentives. The legislation before us will extend the New Markets Tax Credit through 2009. Based on the New Markets Tax Credit Extension Act of 2007, which I introduced with Senator ROCKEFELLER, this provision will help to ensure that investment dollars continue to flow to underserved communities.

Additionally, the tax extenders package will enable retailers who own their properties to depreciate over 15 years, instead of 39 years, improvements to those structures. Based on my legislation, this Main Street-friendly provision levels the playing field between owner-occupied and leased retail space and will help to generate additional construction and renovations to stores nationwide by lowering the cost of capital in a tightening credit market.

Also included is a provision that will allow companies to claim accelerated depreciation for the purchase of recycling equipment. This provision is based on my Recycling Investment Saves Energy, RISE, Act and will save energy, create jobs, strengthen local recycling programs, and improve the quantity and quality of recycled materials.

So as you can see, this package is more than just extending expiring tax provisions. This legislation will create jobs, move us closer to energy independence, encourage investment in low-income communities, and provide much-needed relief to low-income families struggling to meet basic needs. For these reasons, I strongly urge my colleagues in the House to swiftly take up this legislation and finally send it to the President for his signature.

I hope that when the Second Session of the 110th Congress adjourns, we can say we extended this critical tax package. I would also hope that at the beginning of next year, when a new Congress is sworn in, we will commit ourselves to serving those who have entrusted us with their votes, where reaching across the aisle is the norm, not the exception—where looking for consensus is viewed as the answer, not an aberration.

Ms. SNOWE. Mr. President, I rise today with respect to the unprecedented financial rescue legislation that is before us in the U.S. Senate. And let me begin by first applauding Senator DODD, Senator GREGG, Senator BENNETT and Senator CORKER for their perseverance in negotiating and developing a package, as well as the Republican and Democratic leaders' bipartisan work in what are most assuredly the most difficult of circumstances.

Where we stand today is at the precipice of a financial crisis, the magnitude of which is already of historic proportions—threatening future economic growth, jobs for hardworking American families, retirement savings for our seniors, and the ability of Americans throughout the country from all walks of life to access credit for attending college, purchasing a

house or automobile, and running their small businesses. Indeed, the very underpinnings of our economy are imperiled.

This is where we are. The options we face looking forward are not ones that any of us here would choose—far from it. The American people are angry—and I share that anger. Indisputably, the dimensions of greed that precipitated this crisis are unconscionable and outrageous—and there should be no debate whatsoever that those responsible must be held fully accountable.

The question before us now is, Should the Federal Government intervene in our financial institutions? Does the current situation's gravity necessitate an action that would, under almost any other circumstance, run counter to our fundamental economic tenets? Or do we allow this current crisis of confidence, liquidity and solvency to continue, with the attendant fear it perpetuates, undermining the functional future of our economy? What would be the consequences if we failed to attempt to stem the financial hemorrhaging when we had the opportunity to do so, before the sequence of corrosive events truly becomes unstoppable and irreversible?

So, it is little wonder that people in my home State of Maine and in every State in the Union are rightly asking, How could this have happened? How could some possess such a voracious appetite for wealth combined with a stunning lack of moral fiber that they would so cavalierly allow their wanton financial wagers to cripple our economy—to the extent that every American family is now steeped in anxiety and fear about our future?

And how exactly could nearly $3 trillion worth of toxic financial securities that were previously rarely used and little known have been swapped around like betting parlor wagers—with no transparency, no oversight, and no questions being asked by those who should have an obligation to do so?

We have already witnessed the dramatic beginnings of the dangerous tailspin this investment shell game has produced. The recent bankruptcy of the 158 year old institution Lehman Brothers, the Federal takeovers of American International Group and Bear Stearns, the implosion of Fannie Mae and Freddie Mac and their entry into Federal conservatorship, the $557 billion in losses and write-downs on subprime investment worldwide, the single largest bank failure in the history of the United States with Washington Mutual following the collapse of IndyMac, the firesale of nearly insolvent Wachovia—the fourth largest bank in the country—to Citigroup all demonstrate the expansive reach of the crisis. They illustrate at the very least a catastrophic failure to accurately calculate the risk of these investments and the resulting, paralyzing lack of confidence and solvency currently crippling our financial system.

According to Treasury Secretary Henry Paulson, this is the first time we have ever had the failure of AAA-rated bonds—the most highly rated bonds outside of Treasury bonds. This is unheard of, and has sent shockwaves throughout the markets, leading everyone from large corporations to the retirees living on their interest payments to ask, what can they trust if they can't trust AAA-rated bonds? But we now know that many of those bundled, subprime securities were passed-off as high, investment grade securities when in fact they were anything but. So we must ask where were the rating agencies in fulfilling their vital role in accurately identifying these risks?

Moreover, as the instability and loss of value in mortgage securities has become crushingly apparent, investment firms have now ceased extending short-term loans to investment banks—which sounded the ultimate death knell for those firms that have already gone under. And because subprime assets can no longer be valued or sold, banks continue to carry these nonperforming loans on their books—and therefore they cannot move forward in generating the credit that is the lifeblood of our economic growth.

Small firms—which have generated 60 to 80 percent of net new jobs annually over the last decade, are finding it difficult to access credit as existing credit lines are shut down and loans canceled. One owner of a small firm had his business credit card limit severely reduced the day before payday. This reduction may force him to temporarily close his business, leaves him unable to pay his workers, and in arrears to the IRS for $20,000. Further, the National Small Business Association just released their findings that, this past February, 55 percent of small business owners believed their business had been affected by the credit crunch—and as of August, that number had jumped to 67 percent.

The crunch is even affecting the ability of States to implement transportation projects that enhance economic competitiveness and create jobs—at a time when America is already suffering under a 6.1 percent unemployment rate, with 605,000 jobs so far this year and another 100,000 estimated lost in September. Last week, incredibly, my home State of Maine was unable to sell a $50 million, AA-rated transportation bond because frozen credit left officials with no market for these bonds. And I am told that when Maine is finally able to issue the bond, the liquidity crunch will have driven up rates compelling Maine taxpayers to pay millions of dollars in extra interest payments on these necessary road projects.

As further evidence our capital markets are clogged, one need look no further than the London interbank offered rate, LIBOR, which is the benchmark rate at which banks will loan unsecured funds to one another. Prior to yesterday, the LIBOR had reached 3.93 percent—near an 8-month high. Then in the last 24 hours, the LIBOR surged more than four percentage points to 6.9 percent—to the highest level ever! This is more than three times the percentage that would prevail under normal market conditions and means that financial firms are reluctant to lend to one another under reasonable terms.

Moreover, community banks play an especially important role in providing credit and capital to small businesses; 48 percent of small businesses are customers at banks with less than $1 billion in assets. If the nonperforming loans remain with the community banks, it could decrease the banking system's lending capacity by as much as $450 billion.

Given what we have already experienced this September—that regular investors pulled $335 billion out of money market funds, that the cost of overnight lending between banks jumped 116 percent, that capital has evaporated, that major banks have failed, that small firms—as well as large—have been suddenly denied access to existing credit lines, never mind new loans—that on this Monday alone the U.S. stock markets lost $1.2 trillion, it is difficult to conclude there won't be serious and systemic consequences for our economy—for household finances, for American jobs—when the full impact of this meltdown truly manifests itself and we face the imminent threat of a severe recession.

And so we return to the original and central question—are circumstances compelling enough to warrant government intervention? Regrettably, given this travesty of unfathomable proportions for American taypayers and families, they are. In the words of Treasury Secretary Paulson:

> These illiquid assets are clogging up our financial system, and undermining the strength of our otherwise sound financial institutions. As a result, Americans' personal savings are threatened, and the ability of consumers and businesses to borrow and finance spending, investment, and job creation has been disrupted. To restore confidence in our markets and our financial institutions, so they can fuel continued growth and prosperity, we must address the underlying problem.

And Federal Reserve Chairman Ben Bernanke has warned:

> This is the most significant financial crisis of the postwar period.

When our government's financial leadership employs words such as ''undermining,'' ''threatening,'' ''most significant financial crisis,'' it must be considered with the utmost seriousness that it is time to move from the ad hoc approach of assisting companies only at the point they are failing and act prescriptively, now, to stem the tide of a looming financial meltdown.

I well recall the savings and loans crisis, from when I served in the U.S. House of Representatives. During that time, 747 savings and loan institutions went bankrupt, leading to the loss of $160.1 billion in depositor assets. Yet it was only after these failures that Congress finally established, in 1989, the

Resolution Trust Corporation to sell off assets of these already failed financial institutions. Today, it is imperative we act before a similar but far more pervasive cascade of financial failures paralyses our markets and destroys the value of $5.6 trillion in retirement and private pension investments that are imperiled by this ongoing market turmoil.

Again, I commend the tireless work of Senators DODD and GREGG for crafting legislation that ensures that this rescue process will not be open-ended, ambiguous, or unfettered for placing taxpayers front and center for repayment and building in strong taxpayer protections throughout the proposal, for clamping down on executive compensation with tough restrictions that will prevent corporate managers from profiting on the backs of taxpayers for providing necessary, timely, and crucial mortgage relief to families facing foreclosure, for calming banks and depositors by increasing deposit insurance to $250,000, and by including the extension of critical tax incentives and a patch for the alternative minimum tax to ensure millions of middle-class American taxpayers do not fall victim to this onerous levy.

With the passage of this legislation comes the forceful responsibility to recover all of the costs of this program for taxpayers. To fulfill this mandate taxpayers are given an ownership stake in participating companies which ensures they will be first to profit when these companies recover. If, after 5 years, taxpayers have not been made whole, for the costs of this rescue, the President is required to act to recoup any shortfall from the companies which benefited from the Treasury's actions.

Importantly, in addition to provisions limiting executive compensation, are measures addressing so-called retirement ''golden parachutes,'' payments that are often extremely generous and disconnected from performance. Under this bill, for participating financial institutions, the Secretary of the Treasury would be empowered to set compensation standards to exclude incentives for excessive risk taking, recover bonuses paid based on inaccurate earnings statements; and prohibit future golden parachute payments. For companies selling more than $300 million of the toxic securities to the government, tax deductible executive compensation would be limited.

To guarantee strong and comprehensive oversight, I supported provisions championed by Senators BAUCUS and GRASSLEY to establish an independent inspector general that will focus solely on the Treasury's purchase and sale of illiquid assets. I also championed the inclusion of provisions that require Federal agencies to cooperate with the Federal Bureau of Investigations to investigate fraud, misrepresentation, and malfeasance with respect to development, advertising, and sale of the financial products which created this systemic crisis. This became section 127 of the bill.

Passing this legislation—to stabilize markets and restore American's confidence in their financial firms in order to return to the normalcy necessary for credit and commercial activity to revive—must be the first phase of our action to restore the system for American taxpayers, but it can by no means be the last.

The second phase of our obligation is for Congress to demand accountability for the massive malfeasance that has been perpetrated on the American people. The congressional pursuit—through hearings that Senator DODD has indicated he will hold—must occur in tandem with the legal investigation and prosecution of those responsible for this meltdown. Both must receive the same rigorous attention we have applied to this rescue package—and not subsumed by the routine of day-to-day legislative process moving forward.

Therefore, I will introduce legislation to form a dedicated office within the Justice Department whose sole mission is to ferret out the rout causes of this catastrophe and bring to account those who are criminally responsible for bringing our financial system to its knees. It would be inconceivable to me to devote anything less than 100 percent of our resources to investigating those responsible for this crisis. No one should reap rewards from this colossal failure. And frankly, any Wall Street individual who is found criminally responsible must follow the Enron executives to prison!

Finally, as the third phase of congressional action, as we have an iron-clad obligation to ensure that this calamity is never repeated, we are required to reform and rebuild our financial regulatory structure. Congress must demand the restoration of accountability and transparency from all of our financial products, including complex securities such as mortgage backed investments or credit default swaps, whose risk characteristics largely have been black boxes in the past. It is essential that people must know—and the federal government is aware of—the level of financial risks that companies are taking. We must understand whether firms are creating systemic risks that could undermine the foundations of our financial system.

It is essential we must utilize the remainder of this year to develop the fundamental reforms necessary to fix this systemic problem. Again, Senator DODD has announced hearings over the next couple of months to examine the root causes of this catastrophe. Congress must also consider all proposals for reform, such as the ''Blueprint for a Modernized Regulatory Structure'' that Treasury Secretary Hank Paulson put forward in March. As Secretary Paulson's plan concludes, ''the existing functional regulatory framework no longer provides efficient and effective safeguards against poor prudential behaviour of financial services firms.''

Indeed, as we have unmistakably learned, the current regulatory structure, which has been largely knitted together over the past 75 years, can not protect us from the type of systemic risks that are ravaging our financial markets and economy. Financial institutions have developed products and complex risk-hedging strategies that today's regulatory structure has failed to properly evaluate and oversee—with disastrous results. We can never again allow the U.S. financial industry to act with impunity, and make the highly speculative investments that have today put in jeopardy the health, stability, and growth of our economy.

The bottom line is that we do not have a moment to lose in developing a regulatory oversight structure that keeps pace with whatever new financial instruments may be developed in the future. We can never again find ourselves in the position of having to vote for another financial rescue package. Instead, we must take the weeks ahead to draft bipartisan and bicameral legislation to eliminate systemic risk in financial markets and protect our economy over the long term.

Mr. GRASSLEY. Mr. President, this Congress is on the cusp of making an extremely difficult decision that will not only affect our financial markets in the near term, but it will also leave a lasting footprint on the direction of the our economy for years to come.

We face an unprecedented economic challenge—failing banks, declining credit, rising unemployment, and a likely recession. These problems have led us to the point of placing hundreds of billions of taxpayer dollars at risk to purchase risky subprime mortgages in an effort to avoid, or lessen the impact of these looming problems. Allow me to discuss a few of the factors that led us to where we are today.

In response to the high-tech, dot-com bust in 2000, the Federal Reserve began a series of interest rate cuts reducing the Fed Funds rate from 6.5 percent to 1.0 percent. The rate averaged 1.4 percent from 2002 through 2004.

As cheap credit flooded the markets, financial institutions borrowed money at low short-term rates and invested at higher long-term rates—playing the spread. They adopted reckless lending practices under the political banner of increasing homeownership. These practices included ''liar loans,'' i.e. no credit check, no-money down, interest-only, negative amortization, i.e. missed payments are added to the principal, adjustable-rates, and balloon payments.

As these risky loans were extended to marginal borrowers who could not afford their overpriced homes, the financial wizards on Wall Street devised schemes to theoretically insure themselves against default. These so called ''credit default swaps'' allowed investors who purchased mortgage-backed securities to pay fees to underwriters, like AIG, in exchange for a promise to cover any losses. However, the underwriters often failed to acquire and

maintain adequate reserves to cover such losses.

There is plenty of blame to go around for getting us into this mess. But the financial problems we face are much bigger and more fundamental than the home mortgage market itself.

Our financial system is based on the fundamentally unstable practice of maturity transformation—more commonly known as borrowing short and lending long.

The consequences of this practice are illustrated in the classic movie ''It's a Wonderful Life.'' In this movie, Jimmy Stewart plays the owner of the Bailey Building and Loan Association. In the wake of the Great Depression, the citizens of Bedford Falls panic and begin a run on his bank. Stewart's character explains that he does not have their money, but rather it has been used to build their homes. He asks them to be patient, and they will eventually get their money back. But they persist. He ultimately stops the run by convincing them to take only what they need right away. He uses his own money that he was saving for his honeymoon to repay his customers.

The scene from this movie illustrates the fundamental instability of our current financial system. We operate under the illusion that we can deposit our money in a bank and then withdraw it anytime we choose. But at the same time we expect the bank to pay us interest on our deposits.

However, the interest we receive can only be achieved by giving our money to someone else to invest for weeks, or months, or years.

Maturity transformation works only as long as people have confidence in our banking system. Federal deposit insurance was created to instill this confidence. By having the Government stand behind our banks ready to provide the cash necessary to repay our deposits, there is no reason to have a run on a bank. Moreover, if there is a run, banking regulators can swiftly close down the failed bank, or orchestrate a takeover by a healthier bank, and promptly resolve the problem.

Deposit insurance is not a perfect system, as we learned from the savings & loan fiasco in the late 80s and early 90s. Deposit insurance creates moral hazard. Because depositors are protected from their bank's failure, they have no incentive to question the reckless lending practices of their bank. Without adequate oversight, risk-based premiums, and adequate capital requirements, deposit insurance is unsustainable in the long run.

The current home mortgage mess is merely an extension of the maturity transformation and moral hazard problem. But in this case, instead of depositors and deposit insurance, we have overnight loans and too-big-to-fail institutions.

Essentially what happened is Wall Street created an alternate banking system in which participants loaned each other money overnight and invested in mortgage backed securities. They treated their overnight loans as deposits, and they relied on the widely-held belief that once their activities reached critical mass, they would be too-big-to-fail and the Government would bail them all out if anything went wrong.

This financial house of cards collapsed as home prices began to fall and default rates began to rise. At that point, investors became unwilling to rollover their overnight loans. Participants began to suggest there was not enough liquidity. That is a fancy way of saying investors were no longer willing to lend money overnight to buy long-term assets that were declining in value.

So what is the solution?

Last week, the President asked Congress to enact legislation to address this problem. The original plan proposed by Treasury Secretary Paulson would have authorized the Government to buy $700 billion in mortgage-related assets. By taking these troubled assets off the books of financial institutions, it was hoped the government could stabilize falling asset prices and restore investor confidence. Since this plan was first proposed, improvements have been made.

The bill we are considering isn't perfect. Like my constituents, I am outraged that we are in this position today. But the fact is, we are facing a global economic meltdown. Irresponsible lenders and greedy investors have put small businesses, farmers, and families at risk. While many in Iowa may not yet see the effects, our inaction will lead them to understand how dire this problem truly is. We must unfreeze the financial markets as soon as we can, and this is the only solution on the table that will come close to working. We can't guarantee to the taxpayers that this solution will work. What we can say is that we are doing the best we can, representing our constituents the best we can, and trying to solve the problem before the American people really have to suffer the consequences.

What I have come to learn is that the credit crunch doesn't just impact Wall Street. Our economy depends on America's small businesses. We are nine meals away from a revolution, making the farmer an integral part of our country's survival. But farmers and businesses are at risk. Parents who are hoping to send their children to college may not get the loans they need. Individuals that need loans to purchase autos or homes may be left without a ride to their workplace or a roof over their head. There is a trickle-down effect that is sure to be felt if Congress sidelines this bill today.

Since Congress was urged to act, I have stated—in public and private sessions—that there are core principles that must be addressed before I would vote for the bill. I wanted to see strong oversight of the program, including an independent inspector general. I wanted strict executive compensation restrictions for CEOs that got us in this mess. I wanted those who are responsible to give up their pin-striped suits for orange jump suits and to be held accountable. I wanted assurances that the Government would take equity in the firms we bail out. The bill, unlike the original Treasury proposal, includes the core principles I wanted to see. This bill is an improvement from the Treasury plan because there is transparency, oversight, and more protections for taxpayers.

One of the duties I take most seriously as a U.S. Senator is overseeing the policies and activities of the Federal Government. Government must have its checks and balances in place to prevent waste, fraud, and abuse by bureaucrats in Washington. I have been the chief supporter of inspectors general at Federal agencies, and making sure they remain independent overseers of taxpayer dollars. The proposal brought forward by the Secretary of the Treasury failed to include any oversight. Because the emergency plan is sure to be one of the most complex and difficult tasks ever undertaken, I pushed the leaders in the House and Senate to include a special inspector general to monitor the activities of the Treasury Department and its contractors. Timely, comprehensive and truly independent reporting is critical to these oversight efforts.

I am glad oversight was included in this bill. Not only will there be a special inspector general, but we will also have a financial stability oversight board responsible for reviewing the exercise of authority under the program, including the review of policies and making recommendations to the Secretary. Additionally, there is established a congressional oversight panel to review the current state of the financial markets and the regulatory system. This panel will be independent, tasked with reviewing the administration of the program. They will also study the effectiveness of foreclosure mitigation efforts and the effectiveness of the program from the standpoint of minimizing long-term costs to the taxpayers.

Despite these oversight boards and panels, you can be sure that I will not let up on my efforts to reign in fraud, abuse and misconduct. I will not tolerate bureaucrats taking advantage of taxpayer money, and will do my best to make sure heads roll if conflicts of interests by those who run the program are suspected.

Like all Iowans, I am concerned about the risk that this plan places on hard working and responsible taxpayers. Since we began discussing this plan, using taxpayer dollars responsibly has been the top priority. That's why many taxpayer protections were added to the bill.

Treasury's proposal had minimal oversight to protect taxpayer dollars. Like I said earlier, this compromise enhances the oversight structure by creating a financial stability oversight

board, a special inspector general, and a congressional oversight panel. It also requires the Secretary to develop regulations and guidelines necessary to prohibit or, in specific cases, manage any conflicts of interest with respect to contractors, advisors, and asset managers.

The Secretary also has to take steps to prevent ''unjust enrichment''—or paying more for a troubled asset than what the seller paid to purchase it. The Secretary—in considering the purchase of troubled assets—must take into account the ''long term viability'' of the financial institution. The bill requires Treasury to take an equity stake in the companies from which it purchases troubled assets. And it requires the Treasury Department to be transparent when they buy and sell. In fact, they must post, within 2 days, the purchases, amounts, and pricing of assets acquired. These provisions will help shield taxpayers from losses and may provide taxpayers with potential future benefits.

Should taxpayers lose out, the bill allows the government to go back after 5 years to recoup losses from financial companies. The Office of Management and Budget and the Congressional Budget Office will report on the net amount lost in the TARP after 5 years. The Government can assess a fee on companies that use TARP to make sure taxpayers don't lose out in the long run.

I am also glad that the final bill does not siphon profits from the program for an existing housing trust fund, as was proposed by the other side of the aisle. I firmly believe that all proceeds of sales must go to the Treasury and back to the taxpayers.

Taxpayers are protected because the final bill doesn't provide $700 billion upfront. The Administration originally wanted the authority to have it all at once, but this bill provides for the program to be implemented in stages. Only $250 billion will be provided immediately, and another $100 billion will be provided upon a written certification of need by the President. Finally, the remaining $350 billion will be provided unless Congress acts. Let's be clear. Congress can act anytime to revoke the Treasury's authority. They will be watched, and they will be questioned. And if Congress doesn't like what it sees, we can repeal this economic stabilization plan.

Finally, this bill provides for an increase in the deposit insurance cap through the Federal Deposit Insurance Corporation. The last time we increased the level was in 1980. The provision temporarily increases from $100,000 to $250,000 the amount of deposit coverage for banks and share coverage for credit unions. The coverage amount reverts back to $100,000 after December 31, 2009. The bill that was voted on by the House did not include this provision, which is an added protection for American families and businesses.

I am supportive of a provision in the bill to modify the tax treatment for banks holding preferred stock in Fannie Mae and Freddie Mac. The proposal would allow banks to treat gains and losses on Fannie Mae and Freddie Mac preferred stock as ordinary, instead of as capital, for tax purposes.

I have heard this relief is important for a number of Iowa community banks. These banks were permitted and even encouraged to hold these investments. These investments were believed to be safe. They had the backing of the Federal Government and provided reliable revenue streams through quarterly dividends.

In the wake of Treasury's acquisition of close to 80 percent of Fannie Mae and Freddie Mac, these preferred shares became virtually worthless. These small banks generally don't have capital gains. Accordingly, without this provision, they would not be able to recognize a tax deduction for their losses. This provision will help community banks satisfy their regulatory capital standards in order to continue to lend and support economic activity and growth in their local communities.

This legislation includes limits on executive compensation. I will be honest: I wish the executive compensation limitations were stronger. However, the limitations included in the bill are a step in the right direction. Why? Because those executives that got us into this mess should not be able to walk away from the institution that they ran with oodles of money. Not only should they be prohibited from walking away with oodles of money, they should go before the board of directors—before the public—and before the stockholders and bow deeply and apologize for their mismanagement. Like the Japanese do. But I will say this—I will take what I can get, and I will look forward to taking a closer look at excessive executive compensation in the next Congress.

Despite my reluctant support for this bill, I remain concerned about the lack of provisions that will bring about long-term changes to our financial health. I would have liked to see language to address the underlying problems that led us to this emergency relief bill. However, I realize this situation calls for an emergency reaction, and we must temporarily forego consideration of provisions that would beef up the securities markets, and toughen regulations for companies that do business on Wall Street.

Take hedge funds, for example. Two years ago, I started conducting oversight of the Securities and Exchange Commission in response to a whistleblower who came to my office complaining that SEC supervisors were pulling their punches in their investigation of a major hedge fund. Nearly a year and a half ago, I came to this floor to introduce an important piece of legislation based on what I learned from my oversight. The bill was aimed at closing a loophole in our securities laws. In light of the current instability in our financial system, I think it is critical that Senators take another look at this bill. It is S. 1402 the The Hedge Fund Registration Act. It is pretty simple, only two pages long. All it does is clarify that the Securities and Exchange Commission has the authority to require hedge funds to register, so the Government knows who they are and what they're doing.

Given the SEC's current attempts to halt manipulative short selling and other transactions by hedge funds that threaten the stability of our markets, I am disappointed that the Senate did not adopt this legislation long ago. If it had, then the SEC might have more of the tools it needs now in these nervous markets.

One major cause of the current crisis is a lack of transparency. Markets need a free flow of information to function properly. Transparency was the focus of our system of securities regulations adopted in the 1930's. Unfortunately, over time, the wizards on Wall Street figured out a million clever ways to avoid transparency. The result is the confusion and uncertainty fueling the crisis we see today. This bill would have been one important step toward greater transparency on Wall Street, but so far it has been a lonely effort on my part.

Another problem in bringing about transparency in the market is the notion of suspending mark-to-market Rules. Mark-to-market accounting requires entities to calculate fair market value by estimating the price that would be received for that asset in an orderly transaction occurring on a specific date, i.e. willing buyer-willing seller. Contrary to public perception, the mark-to-market rule is not new. Other existing accounting standards have and continue to require certain assets to be written down if the asset value falls below cost. This is often referred to ''lower of cost or market''. Under mark-to-market, assets are required to reflect fair market value so they are measured above cost or below cost depending on market conditions. According to the Center for Audit Quality, an autonomous public policy organization affiliated with the American Institute of Certified Public Accountants, AICPA,''suspending mark-to-market accounting would throw financial accounting back to a time of less comparability, less consistency and less transparency''. This position is supported by the Council of Institutional Investors and the CFA Institute. The chairman of the Financial Accounting Standards Board said it best when he said ''the harsh reality is that we can't just suspend or modify the financial reporting rules when there is bad news.''

I hope Congress will consider these key statutory changes that are needed when we return early next year.

Aside from the economic stabilization plan that we are voting on today,

we are again discussing legislation designed in part to deal with time-sensitive tax matters. I strongly support this part of the package.

These identical AMT relief, disaster tax relief, and individual, business, and energy tax extender provisions were passed by the Senate by an overwhelming vote of 93–2 just last week. There are five categories of tax relief provided in the bill. The first one is the AMT patch. It expired on December 31 of last year. If we don't act, 24 million families will face an average tax increase of at least $2,000 each.

The second category of tax relief includes several tax benefits available to middle income taxpayers. They expired on December 31 of last year.

Included are deductions for out-of-pocket expenses for teachers, sales tax, and college tuition. Millions of taxpaying families would face an unexpected tax increase.

The third category consists of many valuable business incentives, like the research and development tax credit, that likewise expired.

In this time of high oil prices and instability in the energy markets, Congress should send a clear signal in support of alternative energy and conservation. This is the fourth category. We will not let the wide assortment of tax incentives for alternative energy and conservation expire this year.

The fifth and final category deals with disasters that have ravaged the Nation's heartland and the gulf coast. We need to respond to the folks in those regions, including my home State of Iowa.

This is must-do business. Congress cannot dawdle any longer. With a sense of urgency, Senators REID and MCCONNELL have devised a path for the Senate to complete action on these provisions. I would have rather processed this time-sensitive business several months ago, but better late than never.

Our leaders provided Chairman BAUCUS and me with the authority to make the deal. That was the critical step. I pulled out my notepad and resharpened my pencil. Chairman BAUCUS did the same thing. We have a bipartisan deal evidenced by our 93–2 vote last week.

Last year, I laid out the principles Senate Republicans would follow when it came to revenue raisers. The first principle would be whether the proposal is good tax policy. If the proposal is good tax policy, then we would support and vice-versa. This compromise meets that principle.

The crackdown on offshore deferred compensation plans is appropriate tax policy. I am pleased that we made it tougher on hedge fund managers by removing a charitable loophole. Likewise, the offsets in the energy portion of the bill are appropriate policy.

The second principle deals with how revenue raisers are accounted for. This is where the parties differ. How do they differ? Republicans don't want to go down the slippery slope of building in a bias towards tax increases and against current law tax relief. This is especially compelling when appropriations are wholly outside the Democratic version of pay-go. Likewise, $1.2 trillion of expiring entitlement spending does not figure into pay-go. The Democratic version of pay-go sets us down an irreversible path of higher taxes and higher spending.

If expiring tax relief and expiring spending and appropriations were treated similarly, maybe the deficit reduction rationale behind pay-go would be somewhat credible. As it exists now, it only reinforces an ideology of higher taxes and spending. The rejection of Senator MCCONNELL's deficit neutral offer on AMT and extenders proves my point.

In any event, we found ourselves at an impasse. Democrats insisted on offsetting current law tax relief and Republicans resisted more tax and spend. Republicans were willing to use revenue raisers for new policy and for long-term or permanent tax policy. Republicans did not want to use revenue raisers for new spending.

We came to a compromise by looking at this impasse as a kind of prism. A prism breaks one beam of light into several different shades. Each side can look at the different shades of the prism from their own viewpoint and see that their principles were upheld.

At the end of the day, we will have an AMT patch, extenders, energy, and disaster relief package that is a compromise. Republicans will see that the compromise meets their principles. The offsets are good policy. From a Republicans standpoint, there is enough new policy in the energy part of the deal to tie the non-energy offsets. Otherwise, energy incentives are reformed. Republicans can see that the biggest item in the bill, the AMT patch is not offset. That preserves our point that the unfair AMT should not be a reason to raise taxes on other taxpayers. Likewise, there is enough new and modified policy to tie to the offshore deferred compensation revenue. Bottom line is that the leaders were able to secure a longer term extension of current policy as well with the revenue.

Democrats are able to see the offset policy from their standpoint. Democrats wanted significant revenue raisers and they got them. Both sides wanted the underlying revenue losing extensions and new policy.

Most prisms are delicate and transitory. This one is no different. Our friends in the House need to see that. They can break this fragile prism. The shards will cut millions of taxpaying families.

This deal defers the very vital debate between Republicans and Democrats on whether we tax our way out of this fiscal situation, the Democratic view. Or do we restrain spending, the Republican view.

That important debate, which has held us up for so long, is deferred to another day.

Each side holds to its principles. Each side does the Peoples Business. I thank Chairman BAUCUS and the leaders on both sides.

The tax provisions of this bill present the opportunity to preserve tax relief for millions of middle income families.

I would like to end by saying that I reluctantly support this bill. Again, I am outraged that Congress is in this position to relieve Wall Street and our financial industry. But, unfortunately, this is the hand we have been dealt and the options we have are limited.

I know people in Iowa are opposed to this bill. They would rather see companies fail than to have their dollars used to bail them out of this mess. My vote for this bill is not easy because I respect those concerns, and I agree with them. At the same time, this legislation is the best opportunity we have today to avoid a credit crunch that might cripple our economy. No doubt credit will be tighter with or without this bill as the system becomes more cautious after acting too fast and loose for too long. The argument for this bill is that by unplugging the pipeline that is clogged up with bad debt, good credit can flow. The U.S. Treasury can hold all that bad debt until its value returns with the goal of having the taxpayers recover some of the money, and possibly a great deal of the money, that's being committed with this legislation.

I have to vote in favor of this plan because I want to protect the people back home from what is coming their way if we don't act. I hope my constituents will understand why I feel the need to support this bill.

Mr. NELSON of Nebraska. Mr. President, I rise today to express my anger and frustration, and the downright outrage of many of my constituents, about the legislation the Senate is about to consider. The average American taxpayers did nothing to create this crisis, yet they will be asked to bear the heavy expense of government intervention to avoid further harm to our financial system. The recklessness, greed, and lack of foresight on Wall Street have brought us to the brink of a crisis that threatens our entire economy. The outpouring of opposition to this legislation that I have received over the past week in my office is genuine, and it is justified.

However, as elected leaders, we must not lose sight of the dire situation we face as a nation, regardless of how we feel about it. Many of my constituents oppose a ''bailout'' of Wall Street, and rightfully so. But this legislation is more than that. I am not sympathetic to Wall Street. If the financial crisis we are facing ended with them, I would say ''write off your losses, you deserve it.'' But unfortunately, our economy lies at the intersection of Main Street and Wall Street. We depend on a free flow of credit to keep our businesses running, to reverse rising unemployment, and repair our economy so it can once again work for the middle class. Wall Street's mismanagement now threatens the availability of credit on every Main Street throughout our country.

Among the many letters I received during this crisis, some have stood out and articulated far better than I can the reasons why the Senate must act, even though many of us would rather not. For example, Joe Masek, who runs a small business in Gering, NE—the Masek Golf Car Company—recently wrote to me. Masek's employs 32 people and needs to have credit to pay the employees and finance materials from the time they manufacture their product to when the products are sold.

Here are Mr. Masek's concerns, in his own words:

If I go to the bank to draw on that line, and they are forced to tell me that funds are not available because the credit markets are not working, then I have to cancel two contracts with two Colorado golf courses that are depending on me to do what I committed to do. I can see that it would then not take long for our business to collapse. We are now up to employing 32 people, all of whom are paying mortgages and rent and taxes, and putting money aside for retirement in the 401k, etc. Our collapse and thousands of companies like us would ''really'' collapse the entire economy . . . . all for the lack of credit availability which should not be a problem. Yes there are flaws in the ''big bailout'' but we would rather live with some flaws than go out of business. You need to get this one fixed, and not wait until the election to do it.

Credit is crucial to our families, businesses, local governments, and other institutions such as hospitals and schools. We need credit to buy homes, receive student loans, to continue using credit cards for everyday purchases, for small businesses to obtain operating loans to carry them from one season to the next, for farmers to get all of the fertilizer, seed and other materials needed to plant crops, and for cities and towns to meet payroll.

For the reasons above, and for all the Joe Maseks in Nebraska and around the country, I intend to cast my vote for the Emergency Economic Stabilization Act. But I want to be very clear that I would have been the first in line to oppose the administration's initial ''blank check proposal.''

I wish to thank my colleague, Chairman DODD, for leading the effort to address major flaws in the administration's proposal. Nine days ago, after first reviewing the administration's initial proposal, I wrote to Chairman DODD to outline the changes that I demanded if I were to be expected to support this bill. I ask unanimous consent to have printed in the RECORD the full text of my letter following these remarks.

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

(See exhibit 1.)

Mr. NELSON of Nebraska. To briefly summarize, I said that the taxpayer should come first, and all the proceeds of this program be used to retire the public debt. I said there could be no free rides for these institutions—that CEO compensation must be addressed to eliminate taxpayer-subsidized golden parachutes, and that participation in the program should require an equity or debt stake so the taxpayer can share in future profits of the firms that benefit. I said there should be shared responsibility with the rest of the world, and shared benefit between the holders of securities and the borrowers struggling to stay out of foreclosure. I demanded full congressional and legal oversight of the program. These changes were included in the proposal before the Senate today. I am still not eager to support this legislation, but these essential provisions were necessary steps to protect the American taxpayer's interests.

In addition, I called for, and this bill adopts, an incremental approach to the authority to purchase troubled assets. This approach is necessary so that Congress, as we conduct oversight and monitor every action the Treasury department takes with the authority granted them under this legislation, can further protect the taxpayer by cutting off the funds for this program, either if it is not working as we intended, or if the problem can be solved with fewer funds than the total authorized.

When Congress passes this bill, responsibility will fall first to the Treasury Department to make it work. Wise and careful judgment must be exercised by the Treasury Department to try to earn back every taxpayer dollar extended in the effort to shore up our financial system. The burden is on them.

Furthermore, when the Congress passes this bill, our work will not be finished. No, our work is just beginning because not only do we need to conduct vigorous oversight of the unprecedented authority we are granting the Treasury, we need to take a comprehensive approach to rewriting the regulations of our financial sector to insure that we never face this choice again.

If we can move ahead to protect our economy, the next President must change the way Government keeps an eye on Wall Street—for consumer protection. For years, this administration gambled that ''look the other way'' regulation would lead to prosperity, and we see where that got us—mired in a global economic crisis. Having been both a regulator and someone who worked in the industry I used to regulate, I know first-hand the importance of regulation. And I know first-hand that the free market can function prosperously in an appropriately regulated environment.

The next President must end the ''culture of complacency'' allowed to grow in recent years. Obviously, better regulation needs to be imposed. That may take additional legislation, but it is certainly going to mean that the regulations that are already in place are enforced, and that the Federal regulators must get off the sidelines and do a better job. The bottom line is that this financial crisis was avoidable. I hope the next President, whoever he is, will take corrective action to reform these Federal agencies so we can avoid future crises.

In conclusion, I will reluctantly cast my vote for this legislation. I do not do this for Wall Street, but rather for Main Street because of the fundamental truth that the fate of our financial system and the fate of our hometown economic prosperity are inexorably linked. I will support the administration's proposal, with the improvements made by Congress. Only time will tell whether this can avert the crisis we all fear, but the risk of inaction is too great. The people of Nebraska sent me here to make difficult choices, and this is among the most difficult I have made or will make. I want them to know that I share their frustration and anger, but when the day is done, I have to do what I feel is necessary to protect and promote the prosperity of the American economy, from McCook to Madison Avenue, and back again.

EXHIBIT 1

SEPTEMBER 22, 2008.

Hon. CHRISTOPHER J. DODD,
Chairman, Committee on Banking, Housing, and Urban Affairs;

Hon. RICHARD C. SHELBY,
Ranking Member, Committee on Banking, Housing, and Urban Affairs.

DEAR CHAIRMAN DODD AND RANKING MEMBER SHELBY: As the Committee on Banking, Housing, and Urban Affairs responds to the legislative proposal by the U.S. Department of the Treasury for a bailout plan, I write to voice my serious concerns, as well as those of my constituents. The American taxpayers did nothing to create this crisis, yet they will be asked to bear the heavy expense of government intervention. While my Nebraska constituents understand that the cost of inaction may well be greater than the cost of this $700 billion proposal, they rightfully demand strong protection of the taxpayers' investment, together with accountability, shared responsibility and benefit, and strong oversight.

The initial proposal delivered by Treasury raises some serious questions, as it amounts to a ''blank check'' for the largest ever government intervention in the private markets. If my constituents are to be expected to finance this program, significant changes should be made to this legislation and to regulation and oversight of Wall Street, so that this chapter of history never repeats itself. On behalf of Nebraska taxpayers, I urge you to consider the following as you draft this historic legislation.

First, it is the responsibility of Congress to ensure that the federal government's actions reflect the taxpayers' best interests. If taxpayers are to be expected to finance this bailout effort, changes should be considered to protect that investment and to ensure that all profits of this program are returned to the taxpayer. Net proceeds of this program should accrue foremost to retirement of the public debt.

Second, this cannot be a free ride for reckless financial institutions; the assistance offered to troubled firms should operate as much like a loan as possible while still achieving the necessary effect of calming the crisis. The program should require participating firms to issue ownership shares or collateral to the U.S. Treasury in exchange for assistance. Our responsibility to the taxpayer demands as much. Future generations

should not bear the cost of Wall Street's failures, and the cost of this program should be shared with those who participate in it. There should be no golden parachutes for the executives who presided over these distressed firms, and any plan should include limits on executive compensation.

Furthermore, the benefit of this program should not accrue solely to the holders of distressed assets. The legislation should reflect that the root cause of this crisis is rising foreclosures and dropping home values; and to the extent that assets owned or held by the government can be increased in value by assistance to homeowners, that approach should be accommodated by this legislation. In other words, we should not rescue Wall Street from itself without a strong commitment to America's Main Streets, in my home state of Nebraska and throughout our great nation.

Third, there should be shared responsibility with other countries, particularly regarding foreign financial interest. The U.S. government's actions are intended to control a deepening global financial crisis, yet the cost will all be borne at home by American taxpayers. Other nations should share in this effort if their financial institutions hope to benefit from this program.

Finally, Congressional and legal oversight of this asset purchase program must be strengthened. Reports to Congress should come more frequently than twice yearly, and the reporting requirement should stand for as long as any mortgage-related assets remain in the Treasury Department's possession. The Government Accountability Office should have full and unfettered access to all aspects of the program, because taxpayers demand transparency and accountability if they are to be expected to finance this program.

Congress faces unattractive options for addressing this unprecedented problem. If we are to ask American taxpayers to bear this heavy burden, we must craft a responsible solution to this crisis, one worthy of the taxpayer's investment. I ask you to address the principles I outlined above to ensure that Main Street is not forgotten in any bailout of Wall Street.

Thank you for your consideration. I look forward to working with you and our colleagues in the Senate to address this crisis.

Sincerely,

E. BENJAMIN NELSON,
U.S. Senator.

Mr. LEAHY. Mr. President, this financial crisis is rooted in material actions involving executive greed and ineptitude, flawed economic policies, and the incompetence of on-the-scene regulatory agencies. And we are dealing with this crisis at the unfortunate intersection of two toxic trends: the loss of confidence in our financial system, and the public's loss of confidence in the Bush administration. Many have come to agree with those of us who have long felt that ''trust me'' is not enough when this White House asks for sweeping new powers.

As this crisis spreads, threatening to harm our families, businesses and communities, the clock has been running out on the Federal Government's opportunity to try to staunch the damage. I opposed the original Bush plan, which was fatally flawed on several counts. Since then I have worked in good faith to fix its shortcomings, and by now several constructive changes have been made. After many fits and starts and long negotiations that have run through many nights, the clock is close to running out. As the Senate has prepared to vote on this revised plan, I have weighed its flaws and its improvements against the need for action to avert a wider credit crisis and the harm that would bring to Vermont and the Nation. I decided that this national emergency tips the balance in favor of this revised plan.

Vermonters are divided on this, and I know that many Vermonters feel strongly that this is the wrong answer. But with credit conditions for businesses, public institutions, States, localities, and average Americans deteriorating every day, I believe that acting now to help put our economy on an even keel has become an urgent priority.

The bill that the Senate is voting on tonight has changed significantly since President Bush first proposed a $700 billion blank check last week. It provides greater checks and balances on the Government's authority and preserves the rights of people affected by the conduct of financial institutions that participate in the Government's plan. Any actions taken by the Treasury Secretary should be approved by an oversight board, supervised by an inspector general, reviewed under the Administrative Procedures Act, and examined by the courts if there is a question of fraud or abuse. I fought and won in adding the check and balance of judicial review.

It increases the Government's insurance of consumers' and business's bank deposits from $100,000 to $250,000. This would safeguard the savings deposits of families and businesses and farmers in Vermont and protect the checking accounts of businesses that continually need to buy materials, sell their products and make payroll.

This plan now also tightens the restrictions on executive pay and banning golden parachutes for firms participating in the program. Under current law, there are no restrictions on the amount of executive compensation that Wall Street CEOs can be paid. With these people having their hand out for a Federal bailout, we should limit executive pay and prohibit greedy executives from walking away from the mess they created with millions while regular American investors lose their savings and retirement funds.

Senator OBAMA spoke eloquently and persuasively on this tonight. His argument weighed heavily with me. My decision to support this remedy did not come easily, but the worsening crisis has made the choice increasingly clear and the stakes of doing nothing, significantly higher.

Mr. SPECTER. Mr. President, I am supporting this Federal economic aid legislation because the failure of Congress to take some decisive, substantial, action would run the risk of dire consequences to U.S. and world markets. The 777 point plunge in the Dow plunge on Tuesday, in the wake of the House's rejection of this legislation, demonstrates the potential for even greater problems if Congress does nothing.

My affirmative vote is made with substantial misgivings. It is a very unpopular vote, evidenced by constituents' calls and letters and personal contacts overwhelmingly against the plan. It is understandable that the American taxpayers are opposed to footing the bill for unwise speculation on Wall Street and federal officials who failed in the regulatory process. Congress should follow the teachings of Edmund Burke, the greatest philosopher, who said in 1774 that, in a representative democracy, elected officials should consider their constituents' views, but in the final analysis they owe their constituents their independent judgment as to what should be done.

From the outset, I cautioned against Congress's rushing to judgment. When the initial proposal was made, I wrote to Majority Leader HARRY REID and Republican Leader MITCH MCCONNELL by letter dated September 21, 2008, urging we take the time necessary to get the legislation right. By letter dated September 23, 2008, I wrote to Treasury Secretary Henry Paulson and Federal Reserve Chairman Ben Bernanke asking a series of questions which have not yet been answered. Then by letter dated September 27, 2008, accompanied by a floor statement, I made a series of suggestions to the executive and legislative negotiators. Again, there has been insufficient time for a reply.

The rush to judgment began in mid-September when Treasury Secretary Henry Paulson and Federal Reserve Chairman Bernanke warned of an imminent meltdown in financial markets which would threaten retirement funds, jeopardize the jobs of millions of Americans, and subject homeowners to more evictions. A few days later Secretary Paulson issued a three page economic rescue plan which has since grown to a 112-page bill before additional provisions were added.

Whenever we deviate from regular order which has been developed during more than 200 years of serving our country very well, we are on thin ice. On regular order, the legislative process customarily begins with a bill which members of Congress can study and analyze. Here, we were presented with a bill which Congress was asked to act upon within hours after completion. Customarily, after the legislation

is in hand, there are hearings with proponents and opponents of the bill and an opportunity for members to examine, really cross examine, to get to the heart of the issues and alternatives. There have been limited hearings with executive branch officials, but not in the context of analyzing the finished bill or an opportunity for opponents or advocates of alternatives.

After the hearings, regular order calls for a markup in the committee of jurisdiction going over the language line by line with an opportunity to make changes with votes on those proposed modifications. Then the committee files a report which is reviewed by members in advance of floor action where amendments can be offered and debate occurs. The action by each house is then subjected to further refinement by a conference committee which makes the presentment to the president for yet another line of review.

The current process drastically shortcuts regular order. For example, there was no opportunity for members to offer amendments to substitute loans or a governmental insurance policy for the plan to authorize the Treasury Secretary to buy toxic securities which is problemsome because there is no market which establishes value. So the government, and then the taxpayers, may well be overpaying. If loans were made like the AIG model with senior secured provisions, the government might well pay less, as I suggested in my letter dated September 27. In that letter I further suggested that consideration be given to government insurance which would have eliminated the uncertain values in purchases and would have limited the government obligation to being an insurer of the specific commercial transactions which require governmental aid.

In my letter of September 27 I further raised the issue of exercising care to avoid running afoul of the Supreme Court decision in INS v. Chadha. It is uncertain whether the stipulation giving Congress the authority to reject the last installment of $350 billion would satisfy the Chadha standard.

In addition there has not yet been an adequate showing as to how the overall figure of $700 billion was determined. In my letter of September 27, I called for a detailed explanation for Congress as to how that figure was arrived at and the necessity for such a large sum. Similarly I sought justification for an initial expenditure of $250 billion.

We have been working against a backdrop that unless immediate or very prompt action is taken, there is an enormous risk of an economic collapse. In my letters, I expressed my judgment that this would not occur as long as it was seen that the Congress was determined to do something significant and was working as promptly as practicable to come up with remedial legislation. In fact, the market rose on September 25 and 26, when the Congress appeared to be moving toward a legislative solution. The Dow then dropped on September 29 when the House rejected the proposed legislation. Had the House not taken that negative vote when the vote count was not solid, there may well have been enough time to improve the bill without causing the market's collapse.

Even now, there has been a limited time for deliberation and Members have not had an opportunity to debate and vote on alternatives.

It is true that the proposed legislation is enormously improved over the first Paulson proposal, but it still grants enormous authority to the Treasury Secretary. The $700 billion is not to be authorized immediately, but instead there are installments of $250 billion, $100 billion at the request of the President and $350 billion more subject to congressional objection, although the latter phase may be unconstitutional under Chadha. For protection of the taxpayers, the proposal contains a provision that if the government does not regain its money after 5 years, the President would be required to submit a plan for compensating the Treasury ''from entities benefiting from the programs.'' While that provision is a far way from a guarantee or even assurances that such recovery legislation would be enacted, it gives some important comfort to the taxpayers' position.

There are also provisions for multiple layers of oversight including a Financial Stability Oversight Board comprised of the Chairman of the Fed, the Treasury Secretary, the Director of the Federal Home Finance Agency, the Chairman of the Securities and Exchange Commission, SEC, and the Secretary of Housing and Urban Development, HUD, that will meet monthly to oversee the program. The Secretary will be required to report to Congress on a regular basis on the actions taken, along with a detailed financial statement. These reports will include information on each of the agreements made, insurance contracts entered into, and the nature of the asset purchased and projected costs and liabilities. Additional oversight will be provided by the Comptroller General—reports to Congress—a new inspector general—audits and quarterly reports—a congressionally appointed oversight panel—market and regulatory review, and reports to Congress on the program and the effectiveness of foreclosure mitigation efforts—and by OMB and CBO—cost estimates. A report will be required from the Secretary of the Treasury with an analysis of the current financial regulatory framework and recommendations for improvements.

There are substantial limitations on having benefits for entities which created the problem and limitations on executive pay. The executive compensation and corporate governance provisions provide that Treasury Department would have to promulgate executive compensation rules governing financial institutions that sell its troubled assets.

In cases where financial institutions sell troubled assets directly to the government with no competitive bidding and where the government receives a meaningful equity position, the legislation states that, until that equity stake is sold, executives would not get incentives ''to take unnecessary and excessive risks'' and would have to give up or repay bonuses or other incentives based on financial statements that ''are later proven to be materially inaccurate.'' The bill also would prohibit ''any golden parachute payment to senior executives.''

The legislation is less stringent in provisions for financial institutions that sell their assets to the government through an auction. Such provisions would apply only to companies that sell more than $300 million in assets and would subject companies and employees to extra taxes. Corporations would not be able to deduct any salary or deferred compensation of more than $500,000, and top executives would face a 20 percent excise tax on golden parachute payments if they left for any reason other than retirement. In evaluating limitations on executive salaries, it is relevant to note that the Institute for Public Studies found that chief executives of large U.S. companies made an average of $10.5 million last year. That is more than 300 times the pay of the average worker.

The final proposal does provide for debt insurance, but leaves it to the Secretary of the Treasury to utilize that approach so it seems unlikely that it will be implemented in light of the fact that Secretary Paulson has bluntly stated his disagreement with it. Had there been floor amendments, Congress could have structured standards for utilization of debt insurance.

Had we followed regular order with an opportunity to propose amendments, consideration could have been given to my proposal, S. 2133, which would have authorized the bankruptcy courts to restructure interest and scheduling of payments. The so-called variable rate mortgages have confronted many homeowners with the surprise that original payments, illustratively, of $1,200 a month were soon raised to $2,000 which resulted in defaults. Individualized examination by the bankruptcy courts might show misrepresentation or even fraud to justify revising the interest payments and rearranging the payment schedule. Or consideration could have been given to Senator DURBIN's proposed legislation, S. 2136, which would have authorized the bankruptcy courts to reset the principal balance depending on the value of the home. I opposed that bill because I thought it would discourage future lending and in the long run raise the cost to homebuyers. But at least, following regular order, there would have been an opportunity to consider Senator DURBIN's proposal as well as my suggested legislation.

The legislation contains authority for the Treasury Secretary to compensate foreign central banks under some conditions. It provides that troubled assets held by foreign financial authorities and banks are eligible for the TARP program if the banks hold such assets as a result of having extended financing to financial institutions that have failed or defaulted. Had there been an opportunity for floor debate, that provision might have been sufficiently unpopular to be rejected or at least sharply circumscribed with conditions.

As a step to help keep borrowers in their homes, I proposed language found in Section 119(b) of the bill to address the concern that some loan servicers have been reluctant to modify home mortgage loan terms because they fear litigation from investors who hold securities or other vehicles backed by the mortgage in question. The loan servicers have a legal duty to the investors to maximize the return on their investments. In testimony on December 6, 2007, before the House Committee on Financial Services, Mark Pearce, speaking on behalf of the conference of State Bank supervisors, discussed a meeting with the top 20 subprime servicers. He explained that ''many of them brought up fear of investor lawsuits'' as a hurdle to voluntary loan modification efforts. Because the rescue legislation encourages the government to seek voluntary loan modifications, it is important to remove any impediments to such modifications. To that end, the language provides a legal safe harbor for mortgage servicers making loan modifications, if the loan modifiers take reasonable mitigation steps, including accepting partial payments from homeowners.

On reforms to prevent a recurrence of this crisis, we need to question whether the rating agencies adequately analyzed mortgage-backed securities before issuing investment-grade ratings. They appear to have failed, in July of 2007, when it became apparent that ratings issued by the big three rating agencies—Moody's, S&P and Fitch—could not be relied upon, I urged the relevant committees to look into the ratings that those agencies issued in recent years regarding mortgage-backed securities.

Financial institutions that issue asset-backed securities obtain ratings for such securities. The failure to issue reliable ratings misrepresented the facts and fed the ability of financial institutions to tout the value of securities even though their value was declining. Congress and the regulators need to take up the rating agencies issue, and consider whether ratings agencies that have utterly failed to detect and reflect the risks associated with the securities they were rating should be accorded any reliance or role in our financial system. Some have suggested they should be regulated and we may need to consider that.

In addition, Congress and the regulators should review ''off-balance sheet'' transactions and leveraging. There should be a close examination on whether banks are sufficiently transparent and providing accurate accounting that truly reflects risk and leverage.

Similarly there should be a review on credit default swaps, CDS, which are privately traded derivatives contracts that have ballooned to make up what is a $2 trillion market according to the Bank of International Settlements. They are a fast-growing major type of financial derivative. Many experts assert that they have played a critical role in this financial crisis as various financial players believed that they were safe because they thought CDS fully insured or protected them, but the CDS market is unregulated and no one really knows what exposure everyone else has from the CDS contracts. Consideration should be given to subjecting all over-the-counter derivatives onto a regulated exchange similar to that used by listed options in the equity markets.

Excessive overleveraging has been a contributing factor in the turmoil that now threatens our financial institutions. We have seen a massive expansion of the practice of leveraged financial institutions—banks, investment banks, and hedge funds—making investments with borrowed money. In turn, they borrow more money by using the assets they just purchased as collateral. This sequence is continued again and again. The financial system, in its efforts to deleverage, is contracting credit. They must guard against future losses by holding more capital. Deleveraging is leading to difficulty on Main Street for individuals seeking to get a mortgage or buy a car. If a financial institution is able to unload its toxic assets onto the government, it will again be able to resume its lending activities that are crucial for economic growth in the United States. Unfortunately, much of the financial crisis has arisen from miscalculations of the risks involved with purchasing large amounts of securities backed by subprime mortgages and other toxic assets. We now see a situation where we are not just talking about a handful of firms. This is a widespread problem that should be addressed by this package and in future reforms of our financial regulatory structure.

In addition, the package crafted by Senate leaders includes two notable changes from the version that was rejected by the House on Monday. It will include a tax package that was previously passed in the Senate by a vote of 93–2 on September 23, 2008, but has since been rejected by the House in a dispute over revenue offsets. It includes tax incentives for wind, solar, biomass, and other alternative energy technologies. It also includes critically important relief from the alternative minimum tax, which threatens to raise the tax liability of over 22 million unintended filers in 2008 if no action is taken. Finally, the package includes a host of provisions that either expired in 2007 or are set to expire in 2008, including the research and development tax credit, rail line improvement incentives, and quicker restaurant and retail depreciation schedules. I supported the Senate-passed tax extenders bill because it struck a responsible balance on the issue of revenue raising offsets.

The package also includes a provision to temporarily increase the Federal Deposit Insurance Corporation, FDIC, insurance limit to $250,000. Currently, the FDIC provides deposit insurance which guarantees the safety of checking and savings deposits in member banks, up to $100,000 per depositor per bank. Member banks pay a fee to participate. The current $100,000 limit has been unchanged since 1980 despite inflation. This approach is supported by both Senator MCCAIN and Senator OBAMA, by House Republicans, and by the FDIC Chairman Sheila Bair, who sent a request for this change to Congress on Tuesday. Raising the cap could stem a potential run on deposits by bank customers, particularly businesses, who fear losing their money. Such fears contributed to the collapse of Washington Mutual and Wachovia Bank in the past week. However, some economists warn that raising this limit creates a ''moral hazard'' where banks have less incentive to protect assets when there is a government backstop. The coverage amount reverts back to $100,000 after December 31, 2009.

Congress is now called upon to make the best of a very bad situation. We must pledge to our constituent taxpayers that we will learn from the mistakes which led to the brink and take corrective, vigilant, action to prevent a recurrence.

Mr. LEAHY. Mr. President, responding to the national economic crisis has been the focus of our efforts here in the Senate for over a week. I have been consulted by Senator CHRISTOPHER DODD, chairman of the Banking Committee, on the financial bailout proposal. I thank him for all of his hard work to address this complex problem. As chairman of the Senate Judiciary Committee, I wish to inform all my fellow Senators about the intent with which the judicial review provisions were drafted. I believe it is especially important for Senators to have this understanding before Members of the Senate vote on this legislation.

From the very moment I received the administration's proposal, I have objected to any measure that strips the courts from playing their indispensible role as a check on executive power. I have insisted at every stage in the negotiations that the traditional Administrative Procedures Act review apply to the Secretary of Treasury's actions, as well as any constitutional review that our courts are charged with in our democracy.

It was of utmost importance to me to see that judicial review has been maintained in the version that we will be considering in light of the authority this legislation will give to the Treasury Secretary. This review is primarily based on traditional court review under the Administrative Procedures Act. In that section, the word ''law'' means any State or Federal law or common law interpreting such State and Federal laws. This is a crucial distinction, and it is not the intent of the drafters of these provisions to allow the Secretary of the Treasury to vitiate any private right of action on behalf of shareholders based on Federal statute or judicial interpretation of a Federal statute. With this legislation, Congress does not intend to allow any financial institution that participates in this plan to gain immunity from suit, nor permit the Secretary to confer such immunity on any participant.

As chairman of the Senate Judiciary Committee, my other top priority for this legislation has been that the Secretary not be able to interfere with or impair the claims or defenses available to any other person. Americans harmed by corruption on Wall Street should not have their causes of action affected by the Secretary in any way. Truth in Lending Act claims should be allowed to proceed in due course. Shareholders who have been injured by the misconduct of corporate board members or executives should be able to file and continue their claims against those corporations. It is my understanding and intention that none of these causes of action should be harmed or otherwise affected by our bailout legislation. This is why we included a savings clause to make this explicit.

We heard repeatedly from the administration that they were concerned that rogue judges would award injunctions and thwart the emergency actions needed for the Secretary to calm the financial crisis. By agreeing to the administration's request on injunctions, we intend for damages actions to be the avenue of relief for any misconduct, should it occur, on the part of the Secretary. We were assured that existing waivers of sovereign immunity under the Tucker Act, the Contracts Dispute Act, the Little Tucker Act, the Federal Tort Claims Act and relevant civil rights laws would apply to the Treasury Department's new responsibilities, just as these laws have applied to the Treasury Department's actions prior to the bailout measure.

We have also insisted on protection for consumers who are parties to mortgage agreements by including a provision to make sure that any rights or claims held by a consumer in relation to those loans, whether under the terms of the mortgage or Federal or State law, are preserved in the event those loans are transferred to the Federal Government. It is not the intent of Congress to deprive homeowners of recourse against those lenders who, through greed, irresponsible lending, or outright fraud, led people into taking out unadvisable loan products and who were responsible for contributing to those homeowners' current mortgage struggles. Once again, it is imperative that the extraordinary authority Congress has given to the Treasury Secretary not be at the expense of the rights of American citizens to enforce the terms of their contracts or to rely upon State and Federal laws that protect against fraudulent lending practices or other deceptive behavior.

Even in emergencies, it is important that the Federal Government exercise its authority consistent with the rule of law. Congressional negotiators were aware of the administration's call for immediate reaction, but I believe we acted responsibly by taking the time to ensure that adequate legal protections were provided in the legislation. The courts play a fundamental role in our democratic system of government and will be especially important in ensuring that these new authorities are used responsibly.

Americans must have the confidence that those harmed by the conduct of any financial institution can access their courts for redress, despite this legislation. The Congress is aware of civil litigation brought by shareholders or by or on behalf of financial institutions that purchased troubled assets, against officers, directors, and in some cases counterparties whose alleged misconduct caused or contributed to their losses. The Congress is also aware of media reports of criminal investigations. These matters are for the justice system to resolve on an individual basis, but the Secretary and the executive branch should generally cooperate with public and private efforts to recover losses from wrongdoers in the financial markets, whether brought by a governmental entity, securities purchasers, the corporation itself, or asserted on behalf of the corporation derivatively. Nothing in this act is meant to detract from any rights or recovery against private parties to redress wrongdoing that exist under Federal or State law.

I thank the leadership for consulting me during the drafting and redrafting process and for incorporating my language into the provisions providing for judicial review.

Mr. ENZI. Mr. President, I rise today to speak about the historic vote that will occur today on the Emergency Economic Stabilization Act of 2008. Members of Congress and the U.S. Treasury Department have spent the last two weeks debating a response to the declining U.S. credit markets and a plan to get America's economic machine running again. The final product is a far cry from the Treasury's initial 3-page proposal. However, I am still not convinced that this is the best solution for our country.

Throughout this debate, I have listened to arguments from both sides. I studied this legislative proposal line by line, and tried to measure the benefit this legislation would bring to our financial markets against its enormous cost to our taxpayers. Ultimately, I do not believe this is the best solution for our economy or the taxpayer. Has Congress been rushed? Have we decided to do something, anything, even if it's wrong because of the dire warnings of an economic apocalypse? Yes, but in this case the wrong proposal is just too costly for our country in terms of dollars and in terms of our economic future. Something does need to be done to save our economy, but this package is just a very costly band-aide for big banks that will do very little to help patients who need major surgery.

Had Congress been able to use the regular committee process to craft a bipartisan and comprehensive legislation, the resulting bill may have gained my support. Unfortunately, Congress has been pressured into passing this bill in two weeks by Treasury and Wall Street. A rescue plan of this scale requires a clear plan of action with a substantial chance of success. This plan has neither.

When Treasury Secretary Paulson and FED Chairman Bernanke first came to the Hill to ask for help, my colleagues on the Senate Banking Committee and I told him that even his dire warnings of a global economic meltdown would not allow us to give him a blank check. Since that time, the markets have soared and plunged on each new development out of Washington. But the warnings about global collapse have not been realized yet, and I pray that they won't. By passing this legislation are we vastly underestimating the resilience of our markets and overestimating the need for this legislation? This does not provide us with any measurable goals for success.

This plan inadequately addresses the root cause of our market crisis, home foreclosure. Without addressing the root of our economic problem, I have little confidence that it will be successful. I cannot vote for a bill to authorize $700 billion in taxpayer money without a substantial chance of success.

What I was hoping for was a solution that would get closer to the real problem and to the people. The housing crisis accelerated the financial problem. The response was to bailout banks and investment firms and forget the hurting homeowner. That is still what we are doing while claiming to make the credit market more liquid using taxpayer money. The public still sees it as a big bank bailout.

In addition, this plan offers no clear plan to solve our market crisis. I questioned Secretary Paulson and Chairman Bernanke about the asset purchase program last Sunday, and again during the Senate Banking Committee hearing last Tuesday. I did not receive satisfactory answers, and many doubts about this program still remain. The primary purpose of this program is to find the true value of these mortgage assets through a Treasury purchase

program. Yet this legislation provides no details on how that process works, who will participate, and how these assets will be priced.

I understand why many of my colleagues voted for this bill and why some of my constituents encouraged me to do the same. This was one of the hardest decisions I've ever had to make as a senator. I hope that, if this bill ultimately passes, that it does help. I really do. I know this economic hole is dark and there is a real risk of many Wyoming people suffering, but I believe there are other steps that we could try before jumping off a cliff $700 billion high.

I will continue to work with my colleagues to craft comprehensive, accountable, and common-sense reforms to our financial markets. We must consider reforming the fair value accounting method when there is no market. The current rules prevent banks from understanding the true price of their assets in the long term. We need to enact reforms that make federal financial regulation more efficient, vigorous, and transparent. The role of Fannie Mae and Freddie Mac also needs to be re-evaluated in order to restructure the mortgage market from the bottom up. Finally, we should consider changes to our tax code, including capital gains and mortgage interest deduction, which will encourage liquidity in the marketplace. Another idea would be to expand the tax credit to those buying up foreclosed homes or homes on the market over 180 days.

The best way to solve this problem was to never get in the situation in the first place, but at this point that is not an option. Further disruption of our free market system by rewarding bad decisions with taxpayer money will only make this problem worse. That is why I oppose this legislation. We've got a lot more work to do and I look forward to working with my colleagues to reform our financial markets to ensure this situation never happens again.

Mr. SALAZAR. Mr. President, I rise to discuss the economic crisis that is gripping our country and the bipartisan economic rescue package currently before the Senate.

These are troubling times for the American people. We are facing a devastating credit freeze and the possibility of a catastrophic economic collapse. The problems that started with the excesses and ''anything goes'' attitude on Wall Street, are, unfortunately, not contained to Wall Street. The news from Colorado over the last few days has been grim.

Small businesses are worrying that their credit will dry up and they won't be able to make payroll.

Workers are seeing their pensions and retirement savings hanging in the balance. Young families are worrying they won't be able to borrow money for their first home. Students fear that their bank won't extend their college loans.

Farmers and ranchers worry that credit will not be available and interest rates will skyrocket, making it more difficult to buy seed, fuel, and fertilizer.

And construction projects in Colorado are grinding to a halt. Borrowing money is getting too expensive.

To be sure, the economic pain inflicted by the financial credit crunch is not new to middle-class families in Colorado and across the Nation.

Over the last 8 years, middle-class families have seen their incomes drop, while the cost of energy and health care and education have skyrocketed. Gas is still near $4 a gallon. Meanwhile, in the last 2 years, millions of families have been forced into foreclosure or have seen the value of their homes plummet.

For these families on Main Street who have been playing by the rules but who have been left behind by the failed economic policies of the last 8 years, it is entirely legitimate to ask who was ''minding the store'' on Wall Street over the past 8 years.

While ordinary Americans were struggling to pay the bills and fill the tank, and while many of my colleagues and I were calling for action, the administration was twiddling its thumbs.

We heard over and over that the fundamentals of our economy were strong.

In March, we heard that the credit crisis would be contained if the Federal Reserve came to the rescue of Bear Stearns. Then we heard the same thing when the administration asked for the authority to back up Fannie Mae and Freddie Mac, when it was forced to use that authority, and when the Fed loaned $85 billion to AIG.

I can understand why Americans are angry and frustrated. I am angry and frustrated.

But today, we must do our very best to concentrate on the task at hand.

The question before this body is whether the proposal that has been negotiated by congressional leaders in both parties and the administration can unfreeze the credit markets that are so vital to healthy economic activity, prevent future financial failures, and prevent economic paralysis. Millions of jobs are at stake. American prosperity is at stake. The economic security of middle-class families is at stake.

With that in mind, the Senate today is considering an economic rescue package that aims to protect middle-class Americans from the Nation's financial crisis. The package would create the Troubled Assets Relief Program, or TARP. The goal of the program is to inject liquidity into a cash-strapped market and restore the confidence of investors, lenders, and borrowers.

I strongly support this goal.

But let me be clear: I am glad that Congress has overhauled the administration's original proposal and not handed the Secretary of the Treasury a blank check. The proposal before us contains a number of provisions that will ensure strong, independent oversight of the program; better protect the taxpayer; impose limitations on executive compensation for participating companies; and increase foreclosure mitigation assistance to distressed homeowners.

First, I am especially pleased that the money will be provided in installments: $250 billion of the $700 billion requested will be made available at the outset. The President would have to certi the need for an added $100 billion, and the final $350 billion would be contingent on congressional approval. I believe this structure provides an important safeguard in the event that the program does not achieve its intended objectives.

Second, the proposal before us requires the Treasury Department and other Federal agencies to try and work out the mortgages it purchases or controls in an effort to keep families in their homes. It also expands eligibility for the Home for Homeowners program, which was created as part of the housing stimulus bill earlier this year, and which would offer FHA-insured refinancing to distressed homeowners.

Third, in order to provide as much protection for taxpayer dollars as possible, the bill requires companies that sell some of their bad assets to the Government to provide warrants so that taxpayers will benefit from any future growth these companies may experience as a result of participation in the program. It also requires the President to submit legislation that would cover any losses to taxpayers resulting from this program.

Fourth, the proposal contains a number of provisions designed to limit executive compensation for participating companies, including the elimination or limitation of certain tax benefits and, in some cases, caps on compensation. In addition, the bill limits or penalizes the excessive severance packages for departing executives frequently referred to as ''golden parachutes.''

Finally, the legislation includes strong oversight mechanisms and reporting requirements to ensure that Congress and the American public have timely and relevant information about the program and its activities every step of the way. Specifically, the bill requires the Treasury Secretary to report regularly on the use of funds and the progress made in addressing the crisis, and establishes two independent oversight mechanisms: a bipartisan oversight board and a special inspector general for the program.

Each of these provisions represents a vast improvement over the bill that Secretary Paulson and President Bush submitted to Congress, and I joined many of my colleagues in urging their inclusion through the course of the negotiations.

I am also pleased that after the first attempt to pass the economic rescue package in the House of Representatives earlier this week, additional improvements were made to the bill to

provide greater protection to middle-class Americans whose savings are at risk.

Importantly, this bill increases the FDIC limits from $100,000 to $250,000. This will better protect the savings of ordinary Americans and helps ease concerns that I had with the initial compromise.

In addition, I am extremely pleased that, in passing this economy recovery package, we will extend a wide range of important tax relief provisions for middle-class families, including protection from the Alternative minimum tax for 23 million Americans and deductions for college tuition and teachers' out-of-pocket classroom expenses.

This package would also create jobs through a new set of tax incentives to promote renewable energy and energy efficiency. These tax provisions are vital to setting our economy back on the track to prosperity by spurring investment in a new generation of clean energy technologies. In the 3 years between 2004 and 2007, renewable energy sector jobs in the Denver metro area surged from 5,760 to 13,940 and the number of renewable energy companies in the 9 counties surrounding Denver rose from 104 to 1,010. Extending and expanding these tax incentives will be critical to enabling the continued growth of this industry in my State and across the Nation.

Having said all of that, despite these modifications to the administration's original proposal, I believe there are a number of additional areas that need to be addressed and important questions that need to be answered.

For example, as we consider whether and how to protect the American public from the consequences of the failures of our financial sector, we must take steps to ensure this situation does not occur again in the future: That means stronger oversight and regulation of our financial industry.

While I understand that we must act quickly and that the proposal must be focused, I urge my colleagues to join ale in pledging to enact a strong and effective regulatory structure within the next 6 months.

In addition, there are legitimate questions about how the administration settled on $700 billion, why Congress was asked to undertake this large and wide-ranging proposal on an extremely abbreviated timetable with limited opportunity to conduct hearings, and what, exactly, the TARP program will look like—what kinds of assets it will buy and how much it will pay for them.

Should this legislation become law, I am committed to forcefully exercising the congressional oversight authority that it provides to get answers to these and other questions, and to hold the administration accountable for its actions.

This proposal is far from perfect. And I respect the positions of my colleagues who have expressed principled opposition to this bill. Their voices have been important to this debate.

However, after devoting considerable time and thought to the severity of our current financial crisis and to the consequences of inaction for business, families, and farmers in Colorado and across the Nation, I have concluded that I must support this proposal and work diligently to ensure its effective implementation.

We are in the midst of an extraordinarily serious financial crisis. Despite legitimate concerns over the circumstances that brought us to this juncture, we have an obligation—today and always—to act in the best interest of the people we were elected to represent.

This proposal has serious shortcomings, but I believe it is firmly in our constituents' best interests that we act now to protect Main Street from the failures of Wall Street; to ensure that small businesses, farms, and ranches can continue to access the credit they need to survive and ultimately thrive; and to secure the ability of families to save for retirement, find good jobs, and provide for their children's future.

None of us can be sure exactly where our economy will be in 6 months or a year. But what I do know is that the economic security of all Americans is at risk today. I am angry with how we got here, and I am not fully satisfied with this proposal, but given a fighting chance, the American people have always risen to the challenges before them. This bill will give American families that chance by protecting them from the failures of Wall Street and rescuing Main Street from the perils of a devastating credit crunch.

I am confident that our best days are still ahead. We will soon turn the page on the failed economic policies of the last 8 years, right our economic ship, put our Nation back on a path to prosperity, and restore our economy to its rightful place as the envy of the world.

Mr. DODD. I wish comment on certain parts of the Emergency Economic Stabilization Act of 2008.

Section 132 reauthorizes the Securities and Exchange Commission to suspend Financial Accounting Standard 157 if it ''is necessary or appropriate in the public interest and is consistent with the protection of investors.'' That is a very high standard. I do not expect or encourage the Commission to take action in this regard.

Vital to the health of U.S. capital markets is financial information that is reliable. Accounting rules should produce financial data that faithfully depicts economic reality and is neutral, not favoring either the supplier or user of capital, either the buyer or seller of securities. The formulation of accounting standards is best left to the accounting experts. Congress should not be in the business of setting accounting standards.

Furthermore, it is critically important that we respect the independence of the Financial Accounting Standards Board, so that they can observe a fair and open process and arrive at the most appropriate accounting standards. Congress should not chill or override that independence and does not do so in this legislation.

With respect to mark to market, I understand concerns that have been raised. However, many experts object to the suggestion of suspending it. For example, the Council of Institutional Investors, the Center for Audit Quality, and the CFA Institute have said they ''are united in opposing any suspension of 'mark to market' or 'fair value' accounting.'' They stated: [Suspending fair value accounting during these challenging economic times would deprive investors of critical financial information when it is needed most. Fair value accounting with robust disclosures provides more accurate, timely, and comparable information to investors than amounts that would be reported under other alternative accounting approaches. Investors have a right to know the current value of an investment, even if the investment is falling short of past or future expectations.]

Section 133 directs the Commission to conduct a study on mark-to-market accounting. The study is to be completed within 3 months, which will necessarily limit its scope and depth. Within these limits, I will be particularly interested in the findings on the impact of such standards on the quality of financial information available to investors and on the fairness of the standard setting process.

Section 118, ''Funding,'' states that the purposes for which securities may be issued include actions authorized by this act, including the payment of administrative expenses. This would include such reasonable expenses as are incurred in the preparation of reports, such as the study mandated by section 133.

Section 3 states that the term, ''financial institution,'' ''means any institution, including, but not limited to, any bank, savings association'' or other specific types of institutions. The latitude of the definition is intended to include the parent holding companies of one of the identified types of institutions that are established and regulated under the laws of the jurisdictions set forth in the definition. Thus, for example, if a wholly owned securities subsidiary of a public-traded financial holding company sells assets to the Treasury Department, it would be subject pursuant to section 113 to providing a warrant to the Secretary to receive stock in such holding company.

With respect to section 119, I want to associate myself with the remarks of Senator LEAHY on the savings clause.

Section 101 of the legislation gives broad authority for the Treasury Secretary, in consultation with other agencies, to purchase and to make and fund commitments to purchase troubled assets from eligible financial institutions on terms and conditions that he determines. This legislation does

not limit the Secretary to specific actions, such as direct purchases or reverse auctions but could include other actions, such as a more direct recapitalization of the financial system or other alternatives that the Secretary deems are in the taxpayers' best interest and that of the Nation's economy.

Section 129 requires the Federal Reserve to submit regular written reports to the Senate Banking and House Financial Services Committees whenever it uses its authority under section 13(3) of the Federal Reserve Act. The periodic updates to the reports are meant to keep the committees informed of the specific details of any loans or the aggregate details concerning programs the Federal Reserve establishes that are covered by this requirement.

Section 131 requires the Treasury to reimburse the Exchange Stabilization Fund, ESF, for any losses that result from the temporary guaranty program that they recently established. It is the intent of the Treasury that the temporary guaranty program that they recently established will not last longer than 1 year, and while the final version of the act does not mention this timeframe, it was because the Treasury Department has publicly stated that this temporary program will last no longer than 1 year, which is consistent with the intent of this legislation. Further, the act forbids the Secretary from using the ESF for the establishment of any similar fund in the future. The ESF has never been used for loans or guarantees for domestic purposes, and it is important that the money in the fund continue to be available for the ESF's stated purpose.

Section 136 provides a temporary increase in the coverage limit for nonretirement accounts in insured depository institutions. It is the intention of the legislation that this increase be temporary and this increase is not a statement of any intent for changes in the permanent deposit insurance level.

Mr. President, I ask unanimous consent that a letter from the Treasury Department be printed in the RECORD.

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

(See Exhibit 1.)

Mr. DODD. Mr. President, I first thank my colleagues for their generous comments. This has been an incredible 2 weeks. It began exactly 2 weeks ago tomorrow night when the Chairman of the Federal Reserve and the Secretary of the Treasury, in words that were as chilling as any I have heard in 28 years here, describing the condition of our economy.

We heard the words ''credit crunch.'' I was educated in high school by Jesuits, and the word ''credit,'' the derivative, comes from the Latin word ''to believe.'' What is more important to me at this moment than any financial loss that Wall Street suffers or other institutions or shareholders, as much as I am concerned about it, but the biggest loss we run the risk of is Americans believing in their country, that sense of confidence and optimism that has been at the base of our success for more than two centuries.

I say to my colleagues who are wondering whether at this moment we ought to embrace this plan to move us to the right footing, this is the moment which we must take this opportunity to get back our economy, and simultaneously, more important than anything else we achieve, to restore Americans' confidence, their optimism, and their belief that this country can provide a better day for their children and their grandchildren than the one in which they were raised.

Nothing less than that, in my view, is at stake in the vote we will take in a matter of minutes; maybe the most important vote any one of us will ever cast in this body. It will determine the future and the well being of our country. I beseech my colleagues, not as Democrats or as Republicans, but as Americans, and as Members of this remarkable institution, to cast a vote for the future believability in our economy and our country.

I urge a ''yes'' vote.

EXHIBIT 1

DEPARTMENT OF THE TREASURY,
Washington, DC, October 1, 2008.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, I am writing regarding the Emergency Economic Stabilization Act of 2008.

It is the intention of the Department of the Treasury that all mortgages or mortgage-related assets purchased in the Troubled Asset Relief Program will be based on or related to properties in the United States.

Sincerely,

KEVIN I. FROMER,
Assistant Secretary for Legislative Affairs.

FEDERAL RAILROAD SAFETY IMPROVEMENT ACT OF 2007

The PRESIDING OFFICER. The Senate will now resume consideration of the House message on H.R. 2095, which the clerk will report.

The bill clerk read as follows:

Message from the House of Representatives to accompany H.R. 2095, entitled an Act to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes.

Pending:

Reid amendment No. 5677 (to the motion to concur in the amendment of the House of Representatives to the amendment of the Senate to the bill), to establish the enactment date.

Reid amendment No. 5678 (to amendment No. 5677), of a perfecting nature.

The PRESIDING OFFICER. There will be 15 minutes for the majority and 15 minutes for the minority.

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I wanted to make sure everyone knows we have 30 minutes allocated for Amtrak, and then the majority leader, Senator REID, also intends to go back, before the vote starts, and use his leader time at his discretion.

I rise to talk about the Amtrak reauthorization bill which will be the first vote tonight. I start out by thanking my colleague, Senator SMITH from Oregon, for all of the good work he has done on the rail safety portion of this bill; also Senator LAUTENBERG, the majority member who has worked so hard on the Amtrak portion; and Senators INOUYE and Senator STEVENS, the chairman and ranking member of our committee during most of the negotiations on this big, very important bill.

I think we have come to a very good position on Amtrak and on rail safety, and the legislation before us combines these two important bills that were written with separate subcommittees. I have worked on rail safety since I came to the Senate in 2004 when Union Pacific was going through a rash of accidents. The Department of Transportation initiated a compliance review at the request of myself and all the members of the Texas Congressional delegation.

The rail safety component of this legislation will reduce driver fatigue by ensuring that train employees receive adequate rest between shifts. The recent accident in California has led many to call for the implementation of new safety technologies on trains. Our legislation requires the Department of Transportation to develop a plan for implementation of positive train control systems on trains by the end of 2015.

I urge my colleagues to vote in favor of this very important bipartisan legislation.

FINANCIAL BAILOUT

Mr. President, the later votes we will take tonight are on another major piece of legislation. We have been hearing the debate on it all afternoon, really for the last 2 weeks. I want to start by saying that stabilizing our economy is the most important responsibility our Congress has right now. I did not vote for the Fannie Mae, Freddie Mac bailout. I did not. I did not vote for that because I did not think there was enough taxpayer protection, nor were there limits on executive compensation packages.

When Secretary Paulson came before us last week and said he wanted to have the power to spend up to $700 billion, I would not have supported that package, because, again, there were not enough taxpayer protections, there were not enough limits on executive compensation, and there was not enough oversight.

But in my 15 years in the Senate, I have never seen a more bipartisan effort in Congress to sit down and come to a real conclusion for the good of our country, putting Republican and Democratic labels aside, to say: We know it is our responsibility to save the financial integrity of our country for every person who has a pension