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 Billey, 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 whaling, and the whales, and the minnows would be eaten alive. Well, regrettably, my prediction proved right. During that debate, I was told: Get with it, Barney. We are in a global market. You are kind of old-fashioned.

You are just too 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 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, 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 order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PAUL WELSTONE 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:


Paul Wellstone, a Senator from Minnesota, once again, I thank my colleague from Minnesota. 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 CORRINE 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 CORRINE to make some comments.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORRINE. Madam President, I say to the Senator: Mr. Chairman, I thank you very much for those comments. I want to say that we 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.

Also, 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—broadly that is steeped with taxpayer protection, it steps up 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 actors. I know the people of this country hear the phone ring in their 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. I am sure 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 line with business 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 undermined by the 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 these hard-working people being left behind. 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, and 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, we can do it. I believe they will have 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, if 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 wise decision to make sure the taxpayer money comes back. That is a very important task because the general public don’t do something prudent and drastic and in meetings and building support, was to let cooler heads prevail.

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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. 9845
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 9845.

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 profoundly 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 affected millions of Americans andangers most of us here to be in this situation but also 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 this chamber 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 fresh 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 went home. 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 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 laughed 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 are not alone. Last week, a happy week. What a rush of affirmation they will get as they stick a finger in the 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 chamber 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, of either 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 mortal thing. The ideas which do not derive from your pleasure; no, nor from your law and the constitution. They are a trust from Providence, for the abuse of which 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 the 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 to individuals and businesses that 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 gas stations need to supply their 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 erosion of the supply of money in our country and, indeed, the industrial world.

Another canary in the coal mine is the rate on Treasury bills. Several days ago, fearful investors fled 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, and 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 $1 million 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 matter of fact, in the 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 certainty 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 not. This crisis demands that 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, and his colleagues have fashioned this together. And my colleagues—JUDITH CORNER of New Hampshire and others have been talking about spending a lot of time with over 500 amendments, 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 guarantee 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 middle class 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, who was valuable over the last 2 weeks, working out this particular bill that we brought together, and I thank him for his efforts.

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 CORSKER already, Senator CORSKER 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 DURBAN, 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 of the Treasury were 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 party, 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 DOHRER 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. They were witnessing 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 and place a high premium on day after day. I think they would have seen a great deal of work. As I go along to the opposite 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 work 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.

The Secretary of the Treasury has 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 $1 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 wrong-doing.

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 paid out of the pool 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 that immediate 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 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 PRESIDING OFFICER.

Mr. COBURN. Madam President, it is true. It is true even more 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:

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 Laws 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, but all Duties, Imposts and Excises shall be uniform throughout the United States;
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
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 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 of the Constitution. We are very specific. They are very direct. It tells us what we are to do and what we are not to be doing with. It tells us the extent to which the Federal Government is to intervene in the lives of Americans.

The President, 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 cure 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 the place 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 fascio. 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. We 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 in 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 that the Members have overspent 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. They are very specific. They are very direct. It tells us what we are to do and what we are not to be doing with. It tells us the extent to which the Federal Government is to intervene in the lives of Americans.

The issue, we have on the floor another violation of the enumerated powers, which is totally and absolutely reserved for the rights of the States respectively, or to the people.

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 are $10 trillion. A child born today in this country faces $400,000 for taxes they will never get a benefit from—$400,000. Who in this country starting out even could absorb that debt and 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 exist, 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 Constitution. The most recent plunge, the day before yesterday, the Dow falling 777 points in 1 day. 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 the most 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 fear that 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."

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 immediately.

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 be on record. 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 very tough. The 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 share the anger of 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 be anchored in the 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. That stake is now to be released in three installments, not just one lump sum, allowing for additional congressional oversight.

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.
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 represents the serious and urgent need for 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 urgent needed measure. I make 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. Together with my colleagues Senators CONRAD, BAUCUS, GREGG, SCHUMER, CORKER, BENNETT, and my colleagues in the House, particularly BARNEY FRANK and SPENCER BACHUS. Last Thursday, under the direction of Chairman Dodd, we worked very hard to craft a bill that would address these new and worsening challenges and that would safeguard 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 their future directions. I think it is important to see the further devastating consequences for our economy.

As the economists noted a few days ago:

The potential costs of producing nothing, or too little too slowly, include an economic 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 now because, while the crisis will grow worse with delay, 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 strongly in previous legislation 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 because the crisis will grow worse. We must 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. 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 are going to have the chance to have the chances of reviving the economy and restoring it are diminished dramatically. I believe we must act along the
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, uncovered on Wall Street, 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 thus far is to ensure 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 strengthen accounting standards and work our way through this problem without sacrificing these standards.

There is something else we have to recognize and do more to help Americans who are facing foreclosure. It is only through helping the homeowners that we will 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 this Congress 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 by holding 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 jumped them onto the balance sheets of 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 those mortgages 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 and millions of jobs could be lost.

The original White House proposal for addressing this crisis was unacceptable to Members on both sides of its issue. But in the last few days, we 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, 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 interest groups.

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 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.

An economic rescue plan is a necessary effort to prevent 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 chairman said. “If we do not act, we do 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. At 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—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 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 who commit fraud or who allowed a crisis to 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 166 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—a columnists Charles Krauthammer and George Will 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. Agriculture 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
10. American Chemistry Council
11. American Concrete Pressure Pipe Association
12. American Council of Life Insurers
13. American Electronics Association
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 Association
24. American Society of Appraisers
25. American Truckers 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 Association
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. Manufactured 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 Credit Unions
71. National Association of Electric Cooperatives
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
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 recession is, 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 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. It small businesses now 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 or California has 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 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. Thank you, 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, and deliberate.

So can Congress pass this bill, which 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—in deed, 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 possible. I will vote yes 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 confidence; not replace the bailout 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 how 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 profound 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, pro-growth 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 favor of this plan. 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, 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.

Mr. DODD. Madam President, I yield 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 GrSSz, 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. 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 not 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 who 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 it is. It is clear 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 families’ 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 go down and diminish and, in some cases, disappear.

But while that decline was devastating, the consequences of the cred-
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 they have voted 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 than that, but 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 will slip into a bigger recession 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. We have to do what’s best 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 is 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 our way 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 put Americans on the road to recovery. We need to reduce the cost of living, 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 help Americans keep up 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 bigger recession.

We also need to 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 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 need 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 1980s. 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 and making communities energy efficient and 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 and I do not think this is 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 out of this crisis 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 are always in crisis. We have always done it. 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 quorum call be rescinded.

Mr. DODD. Mr. President, I suggest unanimous consent that the order for the quorum call be rescinded.

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

Mr. DODD. Mr. President, I have friends and colleagues with whom I respect deeply who are on all sides of this bail-out issue. One of them just spoke. We all want to do what is right for America, and I believe those who have crafted this plan had pure and noble motives. They want 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
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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 around. We have confronted 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 many 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 the 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 authority 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 Reserve.

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 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 over-supply 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 to keep us quiet, even when we saw that our brainchild had become a financial Frankenstein.

All of our good intentions are now bleeding 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 energy.

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 package bill with the highest rate of new 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 $200 million to keep the company sponsored 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 victims of our misguided good intentions, along with our free enterprise system that has been severely damaged and weakened. We need to take 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 mistakes from the past, fix 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 end 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 resources, at a section of high prices and gas shortages for our families.

We should immediately adopt a freeze on nonsecurity discretionary spending and pass a moratorium on new 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, 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 led to the crisis, but we are part of the Government that created the cheap money that created 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 tax rates, which would 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 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 angry. 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, 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.

Mr. SANDERS. Madam President, let me be very frank. While the bailout of the big institutions that are so large that they are considered ‘too big to fail,’ was necessary in order to avoid a total collapse of the financial system, it is impacting millions of low- and moderate-income Americans in the aggress-
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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 into 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 income for working 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—just 400 families. By 2008 that increase had doubled to $1.3 trillion.

In our country today we have the most unequal distribution of income and wealth in the history of the 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 banks.

We have seen the incredible greed of the financial service 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 thatleighed the spasm of greed, the people whose incomes have been soaring 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 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 choice. The other choice is to 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 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. What all the supporter 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 $100 million in 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 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 the people who have made out like bandits in recent years—they should be asked to pay for this bailout. 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 Mortgage Bankers Association to the Business Roundtable—all of these groups who make huge campaign contributions, spend all
The majority leader, Senator REID, has
appropriating, for 5 years, almost $2 bil-
lion a year to fund this entity. We do not
stand by our decision.

Why is Amtrak losing money? Pri-
marily it is because long-distance
trains account for 80 percent of its cash
operations, but carrying only 15 per-
cent 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 lesser, while passengers are eat-
ing huge losses, I would say, fundamen-
tally, we can do better about that, and
we need to quit mandating, for polit-
cal 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 tech-
niques that are designed to create the
impression of doing something im-
provements. In fact, Heritage said, in-
stead of reforming and improving Am-
trak, the legislation may actually
make it worse.

The PRESIDING OFFICER. The Sen-
ator has used 5 minutes.

Mr. SESSIONS. I would say one more
thing. I checked the price of a train
ticket from Birmingham, AL, to Wash-
ington, 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 Ala-
bama 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
this very, very high FICO score, a credit rating score that
is very high, 720.

FICO score, a credit rating score that
is in terrible shape because its arteries,
short, frightening. Our economy's body
is very high, 720.

It is as bad to do the wrong thing as to
do nothing.

As we confront this crisis, we are
faced with dangers on both sides; Scyl-
la, 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
gen 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 thou-
sands 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 the system in which we live.

If we do nothing, we hurt innocent workers, millions, even though they were not to blame. But there is 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 bankruptcy 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 Senate from Montana, the chair of Finance, and I wanted in the negotiations but a good, large first step. And it was a good example of what the conference committee can do.

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 did 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. DODD. 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 needs.

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, 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 heavy-weight bout, and it is about to be knocked out. We have to do something to make sure that doesn’t happen.

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 Domenici or he hears me, the 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 mortgage-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 did not have 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 mortgage 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: speed by 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, crumpled-up cars. You move them off, and then you move them off 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 and package, and 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, 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 through, I hope House leaders have taken care of. We have taken care of those, and it is a better bill in that regard.

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 chance.

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?

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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 that 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 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 enthusiasm around here is to vote this out of 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 for the thing. 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 great threats in my lifetime, 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. We have abandoned 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 $500 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 costly rescue investment.

If we step in during the decline, taxpayers must be allowed to share in the positives 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 chance.

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?

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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 economic foundation, the administration has put together an option. Jobs are on the line. Peo-
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 requirement risk rose. 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, home builders, mortgage bankers, and home buyers created the conditions that helped inflate the housing bubble.

At the same time, Wall Street was developing 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 monthly 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 92 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 with this 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 previous concerns 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. 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 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 Government was doing at the 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. Monterey 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 delayed.

The GSEs, like many other financial enterprises, 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 remain in the marketplace. 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 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 what this unprecedented piece of legislation would do.

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 system, my concerns have 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 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 our most celebrated 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 local 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 hired to clean 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 is, 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 will 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 authority to suspend mark-to-market accounting. This is 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 payments, which would normally 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 solve 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.

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
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. 2005 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. 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 are about the tax code, 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 facing foreclosures.

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 moral hazard unbridled the U.S. Government will undertake.

This bill sends a message to Wall Street that if they play fast and loose they will be bailed out. It sends a message to the investors who bought those products. Without that triple A rating, they were making safe investments. They bought those products. Investors relied on and trusted those credit ratings, and the public deserves to know how these ratings agencies concluded that such risky investments could receive such high credit ratings.

I could say a lot about this, but just let me 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 solve 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 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 provisions of 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 not act.

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 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 see the 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 and other 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 is about to fold. It is about you—the average American—soon, if we don't act.

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, not being able to realize 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 because 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 some very 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 send their kids to school and send their kids to school and send their kids to school and send their kids to school and send their kids to school, 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 afford to travel, to go to the family doctor, to pay their rent, to pay their mortgage; 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 until we get a legislative 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. It says 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 that the only way 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 manufacturing plant, to the large employer, 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 pay-roll. 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. 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 experience 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 Mynihan 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 and 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 it requires 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 can run deep 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 regulatory failure, who didn’t 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 to say Wall Street is screwed 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 payroll to pay the mortgage to put books on the shelf.

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 have to go to a friend of a friend—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, whole basis of the family

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 is what I wish you all to do.

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 CORZINE, 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 of these banks are 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 get 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 at its lowest 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 school.
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 from Connecticut 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. 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 soundly 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 told him 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, that 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 return some of the bad assets to the American taxpayers are going to recoup this.

There is something important this bill mentions too, which is mark to market. I apiUrl many 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 bill. 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 which it will, those assets are going to rise in value, and the American taxpayers are going to recoup this.

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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, our state government lacks the ability to obtain financing to pay for critical services.

This is why we need federal intervention to help carry us through this difficult economy. The state of our already-slow economy makes the financial situation even more urgent.

We are currently witnessing the initial contraction of Wall Street. 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, economies slow 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 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 to continue the 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 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.

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Right Honorable Senator Domenici,

I wish to share what California treasurers says we would not be able 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.

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Mr. GREGG. If I could engage the chairman in a colloquy, as I understand it, we have about 15 minutes left to stand it clearly.

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

Mr. GREGG. Forty minutes. Fourteen minutes remaining on the minority side.

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

Mr. CASEY. The PRESIDING OFFICER. The Senator from New Hampshire, 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 a little 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 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 when they go 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 the 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 to-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 stuck in the delay, 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 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 hyperbole about what we are going to do. We are not 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, the Federal Government is going to turn around? No. No, it is not.

As I mentioned earlier, we put in place 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 performing assets. They can’t lend 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.

No, I 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 taxpayers.

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. We are going to go 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 accountability. We 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, like 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. What does that do? It creates jobs and it protects the people.

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 don’t 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. It is not clear to me that 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 our nation. A time that the markets have come back, 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 piece of legislation.

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 vote for this piece of legislation.

I reserve the remainder of my time.

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

The PRESIDENT pro tem. The Senator 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 way to do things. We need 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 will have consequences 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 more than willing 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 market.

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 the winners and losers in that? J.P. Morgan got $90 billion 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 a 27-percent return in 1 year.

The FDIC got some money out of that, too. And then to say nothing about the 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 trillion dollars in 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 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 globe.

While we, acting quickly, we could face a collapse of our economy, businesses would fall, 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 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 unchecked, 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 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 Duggan’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? And lost that day 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 for 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, Haliburton operation. We want 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 to the bankruptcy provision that could save a penny in this bill for the kind of help they say they need. There is not a penny to stand to lose their homes and evictions of these rotten mortgages and those who were lured into the tricks and traps.

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, 65,000 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 Secretary Mnuchin 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 pay roll. And when they cannot make a pay roll, 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 very clearly 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 yet.

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 clearly mark 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 depression.

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 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 home values drop. 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 con-
temporary presence at Treasury by the Gov-
ernment 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 man-
aged, I want to ensure that the con-
tracting provisions for asset managers under the package lead to the rem-
ament of financially sound institutions that have the best and brightest finan-
cial minds.

The package gives the Treasury Sec-
tetary broad authority, including the expl-
licit authority to waive certain provi-
sions of Federal acquisition regula-
tions 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 to create a coalition of 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 Sec-
trety 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 Sen-
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BIOMASS

Mr. NELSON of Florida. Mr. Presi-
dent, I have been working with Chair-
man Bayh and staff for the past year on an amendment to the section 45 production tax credit. My amend-
ment modifies the definitions of quali-
fied open-loop and closed-loop biomass facilities to clarify that additional power generation units placed in serv-
vice 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 inadvert-
teint in the Energy Policy Act of 2005 relating to additional units of power appended to municipal solid waste facilities.

As you know, my concern has been that the failure to clarify that addi-
tional 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 lan-
guage that was adopted by the Senate on September 23 does not achieve the goal of eliminating this ambiguity in all circumstances. Is that your under-
standing 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 ambigu-
ous position with respect to addi-
tional 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.

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VEHICLE TAX CREDIT

Mr. BAYH. Mr. President, I rise today to seek clarification of an impor-
tant 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 motor vehicles that is for passenger vehicles and light trucks and varies in amount depending on the ve-
HICLE'S weight and battery capacity. Your leadership has been critical to se-
curing 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 vehi-

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 compo-
nents. 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 Gov-
ernment is committed to the elec-
trification of our Nation’s transpor-
tion sector.

Section 205 of the Senate-passed amendment to H.R. 6049 describes the vehi-
cles that would qualify for the tax credit. Eligible vehicles include, in part, motor vehicles with at least a 4 kilowatt hour battery used for propul-
sion, an offboard energy source to re-
charge 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 Protec-
tion Agency regulations referred to by the bill, such as 40 C.F.R. 86.082-2, de-
fine a van as a “light-duty truck.” It would appear that the committee in-
tends that a plug-in electric drive van, meeting the appropriate weight and emission standards, would qualify for the 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. And 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 impeding in any way the claims or defenses available to any other parties. 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 immunities under the Tucker Act, the Contracts Dispute Act, the Little Tucker Act, the Federal Tort Claims Act, and relevant civil rights laws that could apply in 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. Yes, should the Treasury Secretary, after consulting with the Chairman of the Federal Reserve System, determine that purchasing auto industry loans could be necessary to promote financial market stability and transmit such determination in writing to the Congress, then the Treasury Secretary could engage in such purchases.

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 the extraordinary authority given to the Treasury Secretary 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 could be necessary to promote financial market stability and transmit such determination in writing to the Congress, then the Treasury Secretary could engage in such purchases.
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 135(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 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 hold companies or their affiliates, or 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 or parents 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 companies or parent companies 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 we can all agree 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 investments carry immense risk and benefit from 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 can provide it, are Fannie Mae, 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 reduced by the economic turmoil as well as further funding. 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 301—provides the Secretary of the Treasury 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 colleagues 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 when 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 constant supply of affordable rental housing. My amendment to H.R. 1424 gives the 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 that the Secretary, with 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 in the Treasury 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 will use this opportunity 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 45(q)(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 standards 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. I wish to clarify with the Secretary that the geological storage of carbon dioxide under this provision includes storage at deep saline formations and unminable coal seams under such conditions as the Secretary may determine under these regulations. Is my understanding correct that the legislation is intended to provide taxpayers with assurance that EPA’s regulations 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 fulfill the statutory 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 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 on a long-term basis 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 refinancing through the HOPE for Homeowners Program, or any equivalent method that ensures that these hard-working Americans can be 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 pay-option ARM 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 levels not seen before 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, 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 nonagency or mortgage-backed securities, MBS, which they will now be obligated to aggressively modify or sell as a result of this legislation.

Third, one of the serious complications to 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 mortgates 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 origination agreements and reasons of the 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 legislation has 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 that the need 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 colleagues 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 second full 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.

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 MEMBERSHIP OR LIMITED LIABILITY COMPANY 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 capital assets. 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 Congress for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to 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 a trade or business 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 a sale or exchange of capital assets under section 582(c). 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 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
Under the provision, gain or loss recognized by an applicable financial institution on a disposition holding company (as defined in section 3(w)(1)) of the Federal Deposit Insurance Act (12 U.S.C. 1818) of 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 exchanged by an applicable financial institution on or after January 1, 2008, and before September 7, 2008, in a transaction in which no change occurred in the hands of a certificate holder that is an applicable financial institution at all times during the period beginning on September 6, 2008, and ending on the date of the exchange of the applicable preferred stock. Thus, the provision generally is 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 was not an applicable financial institution on September 6, 2008, in a transaction in which no gain or loss was recognized under section 382(a), Bank A would be required to ascertain 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 applicable 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 stock before 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 stock that was a partner's property in 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 partnership would have been treated for ordinary purposes under section 301 of the bill had the institution held the underlying preferred stock directly for the time periods referred to in (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 value of dividends received on such stock to its two outstanding classes of certificates (partnership interests) and an auction-rate class, where the share of the underlying preferred stock is determined by periodic auctions, and a residual class, which receives the remainder of any dividends received on the underlying stock. 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 the applicable financial institution and 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 existence and the importance of the prompt resolution of the character of any resulting losses allocated to certificate holders that are applicable financial institutions for 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 Employees 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 deductible 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 as parachute payments), 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 property is received) unless 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 during 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 (SEC) amended certain executive compensation, including which executive officers’ compensation must be disclosed under the Exchange Act. Under the new rules, such officers include (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 highly compensated executive officers, other than the principal executive or financial officer.

In response to the Securities and Exchange Commission’s new disclosure rules, the Internal Revenue Service issued updated guidance on how mitigating 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 a principal executive officer) defined again by reference to the Exchange Act. Thus, under current guidance, only four employees are covered under section 162(m) for the taxable year. Under new 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 for parachute payments (as defined in sec. 280G, discussed below) that are not deductible by the corporation.

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) amounts that are excludable from the executive’s gross income (such as contributions to a qualified retirement plan (including salary reduction contributions)); (4) amounts that are excludable from the executive’s gross income (such as group-term life insurance and miscellaneous fringe benefits (sec. 132)); and (5) any remuneration payable under a written binding contract which was in effect on February 21, 1993, such officer and the compensation does not include compensation for which a nonqualified pension plan is not applicable 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 of the compensation are to be paid, including the performance goals, are disclosed to and approved by the shareholders in a separate vote prior to payment, and (4) the compensation committee certifies that the performance goals and any other material terms were in fact satisfied.

Stock options or other stock appreciation rights generally are treated as meeting the exception for performance-based compensation, provided that the requirements for outside directors and shareholder approval are met (without the need for certification that the performance standards have been met), because the amount of compensation attributable to such 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 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 executive does not lose his or her job as an employee. 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. In addition, if an excise tax is imposed on the recipient of any excess parachute payment equal to 20 percent of the amount of such payment.

Defined term

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 in or effective control of a corporation or on the occurrence of an event which results in a change in the ownership of a substantial portion of the assets of a corporation (“acquired corporation”), if the aggregate present value of all payments under such arrangements is more than 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 preceding the individual’s taxable year in which the change in ownership or control occurs.

The term parachute payment also includes any payment under a de minimis parachute payment agreement 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 de minimis parachute payment agreement 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 or one of its subsidiaries and similar entities generally are treated as individuals for this purpose. A highly compensated individual is defined for purposes of section 162(m) as an employee who is among the highest-paid one percent of individuals performing services for the corporation (or an affiliated corporation) as of December 31 of the year in which the compensation is otherwise deductible, and the compensation must relate to services that a covered executive performs during an applicable taxable year of an applicable employer.

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 services rendered on or after the date of the change in control. In addition, the term parachute payment includes 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.

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. Under the provision, the section 162(m) limit includes amounts otherwise deductible compensation (along with the right to future earnings credits) with respect to the $300,000 in deductible compensation. The result of this aggregation rule is that the $500,000 deduction limit includes any deferred compensation. Under the special rule, the unused portion (if any) of the $500,000 limit 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). The executive earns $100,000 in nonguaranteed deferred compensation (along with the right to future earnings credits) in 2008. 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—provisions properly provided for 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 nonguaranteed deferred compensation is deferred until 2009 and that 2009 is an applicable taxable year. The executive’s deduction for the nonguaranteed deferred compensation is deferred until 2009 and is limited to $100,000 (as in the example above). The limit that would apply under the provision for executive remuneration that is in a deferred status and that is otherwise deductible for 2009 is $500,000. For example, if

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the covered executive is paid $500,000 in cash compensation for 2006, 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 during any portion of a taxable year that includes the authorities period. It also includes any employee who is one of the three highest compensated employees of the applicable employer for the applicable taxable year (other than the chief executive officer or the chief financial officer) and is not 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 is 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 executive remuneration).

Executive remuneration

The provision generally incorporates the present law definition of applicable employer remuneration, the present law exceptions for remuneration payable on commission or performance-based compensation, the present law rules as to nonqualified deferred compensation and parachute payments, the present law rules pertaining to the purposes of the $500,000 deduction 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 modifications

The modification to section 162(m) provides the same coordination rules with disallowed parachute payment and stock compensation to 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 payment to (or for the benefit of) a covered executive made during an applicable taxable year. However, the present law definition of applicable employee is modified to include any employee who is a covered executive made during an applicable taxable year that includes the authorities period.

The modification authorizes the Secretary of the Treasury to prescribe such guidance, rules, or regulations as are necessary to carry out the purposes of this 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 this provision. An applicable severance from employment is any severance from employment by a covered executive during an applicable taxable year (other than the chief executive officer or the chief financial officer) and is not employed during any portion of the taxable year that includes the authorities period.

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 the 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 payments 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 generally determined in the same manner as under present law). For example, assume that a covered executive receives a lump sum payment of $5 million. The 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 the Treasury to prescribe 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. The Secretary of the Treasury is authorized to prescribe 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. The modifications to section 280G provide a five year phase-in of the modified $500,000 deduction limit. Effective dates are also specified for the modifications to section 280G.

The provision is effective for taxable years ending on or after date of enactment, except that the modifications to section 280G are effective with respect to severances occurring during the authorities period.
The provision extends for three additional years the exclusion from gross income for discharges of qualified principal residence indebtedness.

**EXPLANATION OF PROVISION**

The provision is effective for discharges of indebtedness on or after January 1, 2010, and before January 1, 2013.

**EFFECTIVE DATE**

The provision is effective for discharges of indebtedness on or after January 1, 2009, 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. And 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 prosperity 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 reckless fiscal policies. The annual budget cuts imposed by the Bush administration and its allies in 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 had led 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 said. And, they pushed through enormous tax cuts, including the largest tax cut in American history to that point all 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 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 what comes 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 upon certification that 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 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 whenever 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
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 and investment business with the securities markets. 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 household spending 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—cannot allow 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. This 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 access to 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 workers who are counting on a 401(k) or other type of pension would see their nest eggs shattered. If the stock market crashes, investors—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 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 toxic assets that are hindering 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 valuations, hold fair, longer-term re-payment 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 home mortgages will also help soothe investor concerns and, therefore, protect pensions, savings and investments.

I could not have supported the original bill 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 taxpayers are going 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 troubled asset relief 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. In this unprecedented and challenging economic atmosphere, 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 these mortgage-backed securities, Treasury is able to take advantage of the government structure to modify, 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 encourage companies 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 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 re-finance loans with and without FHA insurance. These companies need to be committed to working with borrowers and survivors of disaster to extend the time 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.” I am opposed 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, whereas the Bush administration 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 that the Bush administration proposed, 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 manage 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 to assure payments, 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 Reserve’s bailout of AIG. Why? Because without the authority of government. Neither the SEC has the regulatory authority to regulate credit default swaps, or swaps in general, with the incision 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 to honest accounting. Such suspension could potentially allow corporations to use lower 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 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 loaning. 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 package and 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 over-borrowing. 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 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 lack of accounting 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 exclude 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 that 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 andAddiction 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 strengthen 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. Securities could find it hard to reprice 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 crisis 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 the bailout 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 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 no 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 the FDIC-insurance limits many times in the past. 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. If not fully paid for 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 amount 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 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 mislead 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 nonprimary residences, yet doubling down 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 begin 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 do so. We are told that such reforms should be the focus of future legislation.

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 the ‘‘trailer bill’’ a ‘‘trailer bill’’ because, Of course, after promising all would be made well in some future ‘‘trailer bill,’’ many talk we never heard. The 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 more harm than good, especially if it is driven by 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. Then, we learned 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—Buffett has referred to 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 convinced that any separate financial aid 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 possible. 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 everything that 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, the federal government 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 dire. And I believe Banks and investment banks have failed. Credit has become harder to get. Uncertainty and anxiety are high. When Chairman Bernanke and Treasury Secretary Henry Paulson came to us and explained how tenuous the credit markets are, I understood that we must act.

Access to credit is becoming much more difficult. Fewer car loans are being approved. Small businesses are finding it 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.

Mr. REED. The original bailout 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 accountability provisions to prevent abuse, ensure proper management, and reduce conflicts of interest. The legislation includes additional reporting requirements to Congress, mandated audits 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 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 publically 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 investigations 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 critical to ensuring that the funds are used.

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 $300 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 legislation 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 be required to work 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 crisis we are in today. 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 oversight 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 of Senators Grassley, Reed, and Johnson. 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.
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 our 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 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 only a temporary solution, and does not do enough to address American tax dollars benefitting 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 to it than 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 that 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, it is not close enough. Consequently, I will vote against this bill tonight.

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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 investments or about standing idly by as we face 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.

What 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, an unfair tax on the wealthy. 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, 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 after 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 for this purpose, 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 directions 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 opponents.

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 receive their payments. It is needed 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 and fair market 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 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 give the Federal Deposit Insurance Corporation 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 package. More broadly, we 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 making 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 most classes 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 to their viability. The point is that because 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 and other 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.

As we consider the 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 will 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 businesses 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 supporting investment, hiring and growth 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 and the private sector is the real stimulus.

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 the tax and regulatory policies 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 the larger TARP package of 2008, 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 congratulate the Senate for its bipartisan support. 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 country’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 interest rates whose 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, there 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 companies. 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. Unfortunately, our State’s unemployment has been rising alongside the failure or near-failure of many additional institutions that play a central role in our country’s financial services infrastructure. But let’s be clear: The pain extends far beyond Wall Street.

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
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 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. 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 a further disruption 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 Administration and the Secretary 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 wisely enhanced and modified the Secretary’s 3-page proposal. I applaud the Chairman 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 the form of a 5 percent minority ownership interest in the recapitalized 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, regretfully a rescue plan is needed. Greed on Wall Street and lax regulatory practices from this administration got us into this mess. Taxpayers have stepped up to pay for the mistakes of those who got us into this mess. We need rescue, reform, and retribution. No blank checks and no checks written by anyone other 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 her degree and punish anyone for that. We need rescue, reform, and retribution.

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 means that we act. 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 work out their own home. But unfortunately bill goes all out to help Wall Street and only half-way 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, with the credit crisis, 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 don’t 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, putting money into food on their children’s education, sending money to 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 I thought, 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 thought their mortgage was a get rich quick thing 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. We have retirement savings accounts 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 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 aren’t in a position 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 regarding financial institutions that are having difficulty getting their loan applications processed. This is making it impossible to borrow money 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 is designed 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 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 power to deny those funds. 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 face our 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 to recoup 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, and small businesses so that they know their savings and basic business operation accounts are indeed safe.

An independent 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 reform these 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 our 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 in 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 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 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. 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 and cannot adjust to a 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 both Houses, 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 bill 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, although I stand alone, 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.

I recognize 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 near-term 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, the bailout proposal from Secretary Paulson and Chairman Bernanke set expectations for Government to bail out Wall 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.

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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.
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 home in on the hearing 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 necessary orderly liquidation of assets. We would 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 measure—part 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 a 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 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 unprecedented levels of risk, rising unemployment, affordability, a burst in our economy’s bubble, 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 enabled them to falsify 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 recession. This提出了 the Secretary’s role for Congress—a coequal branch of Government—to authorize the enter prise and then work with representatives from the Administration. We were asked to put it right away, without amendment, because each day we delayed, the market would continue to crumble.

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 programs that allow companies to insure their troubled assets.

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 proposal—known as the “stimulus package”—was described in the White House as “without limitation,” to enter into contracts, to designate financial institutions as financial agents of the Government, and to establish “vehicles.”

Brevisity 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 work with representatives from the Administration. We were asked to put it right away, without amendment, because each day we delayed, the market 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 programs that allow companies to insure their troubled assets.

EESA requires the Treasury to modify troubled loans—many the result of
evening Chairman DODD and I were
keeping their homes. I am pleased that this
partment of Housing and Urban Devel-
creasing the tools available to the De-
partment to keep liquidity in the market for these crit-
tax credits and thus provide for
the continued development of afford-
able 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 home-
owners 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 gov-
ernment to provide warrants so that
taxpayers will benefit from any future
growth these companies may experi-
ence as a result of participation in this
program. The legislation also requires the
Treasury to submit legislation that
does not include provisions to
pay was not included in this legislation.
This bill does include provisions to
limit executive compensation. Execu-
tives who made catastrophic decisions
should not be allowed to unload their
toxic assets on working American fam-
ilies and still make high salaries and
bonuses. Under this bill, some compa-
nies will lose certain tax benefits for
salaries in excess of $500,000 and their
bonuses and so called "golden para-
chutes" 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."
Mr. President, although long overdue, I am very pleased that the Senate has incorporated a bari-
tarian agreement to renew expiring tax
provisions in the Emergency Economic
Stabilization Act of 2008. These tax
provisions are important to families across America, and provide incentives for
the production of clean energy and con-
100,000 new jobs. As working families are
struggling to put food on the table and
energy efficiency tax credits that create
necessary incentives to reduce energy
demand?
Consider the economic impact of in-
action. Dr. Mark Cooper of the Con-
sumer Federation of America esti-
mates that from 2002 to 2008 annual
household expenditures on energy in-
creased from about $2,600 to an aston-
ishing $5,300! In my state of Maine,
where 80 percent of households use
heating oil to get through winter, it's
gonna be even worse. Last year at this
time, heating oil prices were at a challenging $2.70 per gallon—far lower than any price in a crisis.
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 stated:

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 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 tax 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 SENNING. 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 and 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 acts 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 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 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 home 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 convenes, we will make it ourself 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 BENNET and Senator CORZINE 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 millions 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 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 and system failure 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 such a sordid 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 158 year old institution Lehman Brothers in September. Last week, incredibly, my home State of Maine was unable to sell $3 billion in extra interest payments on state debt at the point they are failing and act prescriptively, now, to stem the tide of panic the ultimate death knell for those firms that have already gone under. And because our economy is at such a precarious juncture, 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 our economy is at such a precarious juncture, we must ask where were the rating agencies in fulfilling their vital role in accurately identifying these risks?

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 cannot be made. Of our over 60,000 small firms that 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—a year ago, 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 lost 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 assets are now understood to be worth one another under reasonable terms.

Moreover, community banks play an especially important role in providing credit and capital to small businesses; 46 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 $27 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 so that major real estate that was valued 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 healthy and vibrant growth.

The American people are angry—andtitrate this crisis are unconscionable and outrageous—and there should be no debate whatsoever that those responsible must be held fully accountable.

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 through even 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?

For American jobs—when the full impact of this meltdown truly manifests itself and we face the imminent threat of a severe recession—and to a central question—are circumstances compelling enough to warrant government intervention? Regrettably, given this travesty of unfathomable proportions for American taxpayers 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, consumers' and systemic concerns pose 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 the original and central question—are circumstances compelling enough to warrant government intervention? Regrettably, given this travesty of unfathomable proportions for American taxpayers and families, they are. In the words of Treasury Secretary Paulson:

This is the most significant financial crisis of the postwar period.

When our government's financial responsibilities 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, 947 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 paralyzes our markets and destroys $5 to $6 trillion in financial assets and $250 million in illiquid assets. I also championed the inclusion of provisions that require for credit and commercial activity to return to the normalcy necessary 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 suitable regulatory structure 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 root out the cause 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 efforts 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.

Finally, as the third phase of congressional action, as we have an ironclad 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 and 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 few months to examine the root causes of this catastrophe. Congress proposes to 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 behavior of financial services firms.”

Indeed, as we have unmistakably learned, the current regulatory structure, which has been largely knocked together over the past 75 years, can not protect us from the type of systemic risks that are ravaging our financial system. 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 system 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 a 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 our economy for years to come.

We face an unprecedented economic challenge—failing banks, declining credit, rising unemployment, and a likely recession. This has 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 percent. The Federal Reserve mashed 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. Paydown 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 monthly payments, the financial wizards on Wall Street devised schemes to theoretically insulate 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
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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 problem 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 is forced to run his bank by coercing others to take on 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, 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 the Government 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 do is give a What we can do is give 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 global economic markets. 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 three 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 austerity 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 him independent and giving him oversight of the program from the standpoint of taxpayers. 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 mitigation efforts and the effectiveness of the program from the standpoint of minimizing long-term costs to the taxpay
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 is 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 we see, 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 capital gains.

I have had this relief is important for a number of Iowa community banks. These banks were permitted and even encouraged to hold these investments. Whether or not 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 would 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. This 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 get us into this mess should 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 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 comprehensive reform that would level 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 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 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 CPA 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,
Chairman BAUCUS did the deal. That was the critical step. I would have rather processed this time-sensitive business several sessions. I would have rather processed to complete action on these provisions of urgency, Senators REID and MCCONNELL should have arrived. Energy incentives are reformed. The offsets are good policy. From a Republicans standpoint, there is enough compromise meets their principles. The offsets are good policy. From a Republican'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 on 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 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 the offset 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 least we can do is 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 want the day, 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 minority will see that. They can break this fragile prism. The shards will cut millions of taxpaying families.

This deal defers the very vital debate at this time of high oil prices and instability in the energy markets. Congress should send a clear signal in support of energy 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 disaster relief. One 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 rather 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 sharpened 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 breakdown 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 partisan difference. 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.

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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 once again work for the middle class. 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 American people do not want to bail out the financial industry. But, unfortunately, Wall Street have brought us to the brink of a crisis that threatens our entire economy. The outrauling 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 is the difference between 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. 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.

I would like the 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 Grain 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 me 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, and thousands of companies like us would "really" collapse the entire economy... all for the lack of credit that 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, or to purchase things 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 am one of 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.

Hon. RICHARD C. SHELBY, Chairman of the Committee on Banking, Housing, and Urban Affairs;
Hon. CHRISTOPHER J. DODD, 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 the problem, and 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 rescue of 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. Department of the Treasury 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 of those 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 firms. The legislation should reflect that the root cause of this crisis is rising foreclosures and dropping home prices; and to the extent that assets owned or held by the government are increased by aid 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 Street and to the states, including the state of Nebraska and throughout our great nation.

Third, there should be shared responsibility between 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 countries 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 what 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 need for action in the coming weeks, the need for action across the country very well, we are on thin ice. More than 200 years of serving our people, 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 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 line by line with the 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 presentation to the president for yet another line of review.

The current process drastically shortens 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 problematic 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 governmental insurance which would have eliminated the uncertain values in purchases and would have limited the government obligation to be an insurer of the specific commercial transactions which require governmental aid.

In my letter of September 27 I further counselled against taking 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 it was arrived at. 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 possible to get something done. Thereafter, the market went on a wild ride, beginning during the final markup of the bill and an opportunity for proponents or advocates of alternatives.

After the hearings, regular order calls for a markup in the committee of jurisdiction, a line by line with the 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 presentation to the president for yet another line of review.

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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 balloonied to make up what is now 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 were 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 other people’s 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, they 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 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, and other renewable 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, railroad improvement incentives, and many other benefits and tax credits and retail depreciation schedules. I supported the Senate-passed tax extenders bill because it struck a reasonable 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 Obam, by Majority Leader Harry Reid, 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 to the FDIC by 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 threatens the stability of banks that 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.
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 court review under the Administrative Procedure Act. Under 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 noted on the face 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 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 actions blocked 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’s new authorities, 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 Reserve. The intent 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 and others of the executive branch protect 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 an emergency, 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 the need for 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 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 derivative rights.

The 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 oppose what appears to me to be an unwarranted and unnecessary extension of Treasury’s new authorities, 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 Reserve. The intent is not the intent of Congress to deprive homeowners of recourse against those lenders who, through greed, irresponsible lending, or

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 pushed? Have we decided to do something, anything, even if it’s not the wisest of moves or the smartest of moves, the wisest of moves? Is this the wrong proposal? Is it 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 economic system. This package is just a very costly band-aid 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 size requires a complete change in 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 we are 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 mortgage fraud. 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 hurt of the patient who needs major surgery. That was not 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 path to resolve our mortgage, and 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 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 that the 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 undercutting 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-examined and restructured in order to structure the mortgage market from the bottom up. Finally, we should consider changes to our tax code, including capital gains and mortgage interest deductions, in order to 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 have spent 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. 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, now directed 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 payments.

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 some, the 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 tanks, and while many of my colleagues and I were calling for action, the administration was twiddling its thumbs.

We have 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 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.

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 certify the need for an added $100 billion, and the final $350 billion would be conditioned 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 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 this 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 that 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 the concerns that I had with the initial compromise.

In addition, I am extremely pleased that, in passing this economy recovery package, we are providing 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. A situation does not occur again in the future: That means stronger oversight and regulations of our financial sector, we must take the time to properly address the 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 me 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—our obligation—today, and always—to act in the best interest of the people we were elected to represent.

This proposal has serious short-comings, but I believe it is firm 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 have the ability to invest and grow and hire; and to provide for the children’s future.

None of us can be sure exactly where our economy will be in 6 months or a year. We know 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 an ability to save, and always—to act in the best interest of the people we were elected to represent.

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 in 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.

With respect to mark to market, I understand that concerns 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 CPA Institute have said they support continued 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 and regulators cannot make fair value accounting during these challenging times.]

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 jurisdiction set forth in the definition. Thus, for example, if a wholly owned securitization subsidiary of a public-traded financial holding company was subject to oversight by 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 hold 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 after the Administration econo-

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 intention of the Department of the Treasury that the temporary guaranty program that they recently established will last no longer than 1 year, and while the final version of the act does not mention this timeframe, it was because the Treasury Department 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 deposit 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 purpose of deposit insurance.

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 Chairmen 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 Jesu-
s, 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 institutional holders, 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 that has 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 safe harbor for their children and their grandchildren than in 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.


It is the intention of the Department of the Treasury that 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 now read.

The bill clerk reads as follows:

Message from the House of Representatives to accompany H.R. 2095, entitled an Act to alleviate hazardous materials releases, to authorize the Federal Railroad Administration to improve the safety of railroads, to authorize the Federal Railroad Administration to purchase rail cars for the protection of hazardous materials, and for other purposes.

Pending:

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 Pannie Mac, 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

Mr. President, I ask unanimous consent that the text of the Message from the House of Representatives be printed in the Record.

The PRESIDING OFFICER. The bill clerk will now read the message from the Senate.

Message from the Senate of the United States to the House of Representatives, transmitted electronically, in response to H.R. 2095, entitled an Act to ensure the financial integrity of our country for every person who has a pension

FINANCIAL BAILOUT

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