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Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, SECOND SESSION

Vol. 154 WASHINGTON, THURSDAY, DECEMBER 11, 2008 No. 186

House of Representatives

The House was not in session today. Its next meeting will be held on Saturday, January 3, 2009, at 11 a.m.

OMISSION FROM THE CONGRESSIONAL RECORD OF WEDNESDAY, DECEMBER 10, 2008, AT PAGE 10870

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the following enrolled bills were signed by the Speaker on Thursday, November 20, 2008:

H.R. 5714, to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army in 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the colonial period to today.

H.R. 6867, to provide for additional emergency unemployment compensation.

S. 602, an act to develop the next generation of parental control technology.

S. 1193, an act to direct the Secretary of the Interior to take into trust two parcels of Federal land for the benefit of certain Indian pueblos in the State of New Mexico, and for other purposes.

On Friday, November 21, 2008:

H.R. 2040, to require the Secretary of the Treasury to mint coins in commemoration of the semicentennial of the enactment of the Civil Rights Act of 1964.

OMISSION FROM THE CONGRESSIONAL RECORD OF WEDNESDAY, DECEMBER 10, 2008, AT PAGE H10957

ENROLLED BILLS SIGNED

Ms. Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker on Thursday, November 20, 2008:

H.R. 5714. An act to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army in 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the Colonial period to today.

H.R. 6867. An act to provide for additional emergency unemployment compensation.

On Friday, November 21, 2008:

H.R. 2040. An act to require the Secretary of the Treasury to mint coins in commemoration of the semicentennial of the enactment of the Civil Rights Act of 1964.

SENATE ENROLLED BILLS SIGNED

The Speaker announced her signature to enrolled bills of the Senate of the following titles, which were thereupon signed by the Speaker on Thursday, November 20, 2008:

S. 602. An act to develop the next generation of parental control technology.

S. 1193. An act to direct the Secretary of the Interior to take into trust 2 parcels of Federal land for the benefit of certain Indian Pueblos in the State of New Mexico, and for other purposes.

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Senate

(Legislative day of Wednesday, December 10, 2008)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord God, You open to us horizons of hope through faith's resources. Let Your grace undergird our Senators' lives, as You fill their days with a knowledge of Your will. Guide them to solutions that best honor You, as they find in You a resource for every need. Deepen their desire to please You, opening to them new opportunities to obey Your commands. Strengthen their worthy desires and be for them a shelter in the storm. May they grow in grace and in knowledge of You.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 11, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each. Following morning business, the Senate will resume consideration of the motion to proceed to H.R. 7005, the legislative vehicle for the auto industry's financing and restructuring. Rollcall votes are possible during today's session in the Senate.

When we left here a few weeks ago, the decision was made that there would be 1 week for the automobile industry to make presentations to the two committees of jurisdiction, the House and the Senate Banking Committees, to determine what would take place during the following week. That was last week, and hearings were held in both committees, and evidence, in fact, was taken. There have been weeks and weeks of work put into coming up with a piece of legislation on which we can vote. That matter is before the Senate in H.R. 7005.

I have had calls from a number of Senators today—frankly, mostly Republican Senators—telling me that they have the solution to all of the problems of the auto industry; they need a few amendments. A few amendments. We have done our very best to include everyone who wants any input into this legislation. The White House, President Bush and his people have been heavily involved in this legislation. This is, in effect, the White House's legislation.

There was a decision made that the minority would not participate in the preparing of this legislation. But the White House was heavily involved. Negotiations took place over days between Chairman FRANK and Chairman DODD and the White House, and we now have a piece of legislation. Some have asked: Well, what we want is to set up a procedure where we have lots of amendments, and then we will ultimately vote on the final version.

I think it is only fair that if the minority, the Republicans, want to have a better bill, then they should offer an alternative. I invite them to do it. The House passed a bill last night. It would be my suggestion that we perhaps have a vote on the substitute or the alternative the Republicans would put forward, vote on the House bill, vote on the Senate bill. If there is no agreement that can be reached on that, we have danced this tune long enough.

What we will do, we can have a motion to proceed to this tomorrow, and if the Republicans want to come and say, well, you know, you have not allowed us any opportunity to offer amendments—that is what has taken place for the last 2 years, and look what it got the Republicans: lost seven or eight Senate seats, lost the Presidency. We want to legislate, and we are doing the very best we can to do that.

I have reached out to my Republican colleagues. As soon as the elections were over, I called a number of Republicans and said: We want to work with you. We cannot continue doing what we have done in the past. But we are right back where we have been for 2 years, the same place we have been for 2 years.

So, again, I suggest that if the Republicans have an alternative, let them

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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offer that. It would be very easy to do. We could vote on a Republican alternative, we would have a vote on the White House proposal now before the Senate, and we would vote on the bill that passed the House and leave here. If that is not something the Republicans choose to do, then we will vote tomorrow on a motion to proceed to the bill that has been prepared, drafted, and had input on by the two committees and the White House. If we are not allowed to proceed to that, then we, in fact, will be through with this, as we have been through with numerous pieces of legislation through the past year.

So, again, I invite the Republicans, if they have an alternative, to put it forward. They have had ample opportunity to do that. Again, I have received a number of phone calls from Republicans today saying: I have just the thing that needs to be done to make this a great piece of legislation. Well, I would hope they would be ready to do that. If not, we will have a vote tomorrow on a motion to proceed to H.R. 7005.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each.

ORDER OF PROCEDURE

Mr. CORKER. Mr. President, my understanding was that if possible—I made some calls earlier today that that may be waived and that I go up to 25 minutes.

Mr. INHOFE. Mr. President, reserving the right to object, I ask unanimous consent that the Senator from Tennessee be given the amount of time he wants, and immediately following that, that I would be recognized for such time as I shall consume.

The ACTING PRESIDENT pro tempore. Does the Senator from Oklahoma have a sense for how much time that will be?

Mr. INHOFE. About 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Tennessee is recognized.

AUTOMOBILE CRISIS

Mr. CORKER. Mr. President, I rise today to talk about where we are in this auto bailout. In essence, it is show time here. A bill came over from the House last night. It is the end of the year. There is an impending crisis we are dealing with here in the country. So today we will be debating that and hopefully in the next few days take a vote.

I spent a lot of time in the committee talking with certain and various parties involved. I spent a lot of time outside the committee doing the same thing. There is no doubt we are going through an economic time that is very difficult for the auto industry. It is also difficult for businesses and families all across this country as they try to make their budgets work out.

As we have looked at this issue, I know there has been a lot of negotiation that has taken place between the White House and House Democrats. I really think the product that has been developed is a very poor product.

I don't blame that on my Democratic colleagues who negotiated because the White House is actually at a point where they are looking for the next flight out of town on January 20. Basically, they want to kick the can down the road and let some other administration and some other Congress deal with this issue. All of us are going to be here next year. It is our responsibility to deal with this issue in a professional and a competent manner and actually solve the problem.

I say to my colleagues on both the left and right, on the Democratic and Republican sides, we have a historic opportunity to actually solve this problem. The solution is very simple.

I have looked at this legislation that has come over. It is similar to so many things we do around here. It is akin to a three-humped camel. You couldn't make it more ineffective and more complicated. We have put in place a czar. It seems like with everything we do around here, we try to find a person who can save us from the crisis that is happening. We did the same with the financial rescue package not long ago. I have looked at the actual responsibilities of this czar. I said yesterday I had a banking staff person who actually could fulfill those responsibilities. She read that in the paper this morning and came in and said she is overqualified, that in essence this is not something she would want to take on. I think we can use some help, certainly, from the outside, and there may be a role for somebody such as this. But what we are looking at is a fairly simple transaction. It is a lot of money, a fairly simple transaction.

Here is what we have. We have three companies. Two of the companies are on the verge of bankruptcy. As a matter of fact, I would say two of the companies are in bankruptcy. I know Chrysler, today, is meeting with their supplier group. I know if they don't win concessions today, they are in great trouble. General Motors has told us if they don't receive funding by the end of this year, they will have to file bankruptcy. I believe that.

We have a lot of Republicans who would like to see that happen, would like to see chapter 11 occur and to see them go through the laws that exist for reorganization in a way that is clean and allow them to move ahead in a financially stable way. As a matter of fact, many Republicans would actually agree to something called debtor-in-possession financing after that occurred so these companies could evolve. There are people on the other side of the aisle who have decided that is a cost that is too great to bear.

I started out along the path that I believed the best way for us to solve the problem was to actually cause these companies to go through reorganization and any role we might play as the Federal Government would be in the way of debtor-in-possession financing. After listening to the testimony and after talking to people all across the country who are involved, I do believe the supply chain is in great stress. They are undercapitalized. The three companies have already been utilizing the supplier chain for financing by paying late and carrying payments for lengths of time. I do think the supply chain is fragile.

What I have tried to do is figure out a way to create a piece of legislation that is elegant, simple, actually solves the problem, and causes these companies to be in great shape and for us to be able to move ahead and know that has been done.

There are a lot of times I have heard people say: We are from the Government, and we are here to help you. When people hear that, they usually run for the hills. This is a case where if we will take a moment, we can actually do something that is great for these companies. We have a big stick. These companies cannot get financing anyplace except from the Federal Government. So we have an opportunity to sort of thread the needle in a simple way and cause these companies to be successful.

Let me say, other than the economic issues, these companies have three major issues. Each one of them is different. We know that basically we are talking about General Motors here. We wouldn't be having this discussion if it weren't for General Motors. Chrysler would not be here if it weren't for that. They are in serious trouble but wouldn't have the clout to be able to talk to us in this way. Ford has money today because of refinancing they did back in 2006. They are not even part of the discussion today. They might be down the road, but today they are financially viable, although burning cash at a rate that is almost equal to that of General Motors. We are talking—to make this clear to people—

about three entities we need to talk to: General Motors, Cerberus or Chrysler, and the UAW.

There are three things that are basically causing these companies difficulty. One is the capital structure. The debt these companies have is not sustainable. It doesn't matter how much money we were to put into General Motors; with the $62 billion in debt they have today, there is no way they can sustain their company. They cannot. GM only has a market cap today of around $2 billion. Toyota has a market cap of $130 billion. BMW has a market cap of $14 billion. So this is a company that has a huge amount of debt and very little value. Chrysler probably has no value. They are privately held. So we have two companies we need to deal with in a similar way, as it turns out.

Let me lay something out. Right now the capital structure in both places is too high. Cerberus and Chrysler can't withstand its debt. GM cannot withstand its debt. Secondly, the labor costs are out of line. I know there is a lot of talking about the UAW. Candidly, I will admit, in some cases they get a bad rap. A lot of the people who are my friends would not like me saying that, but in some cases they actually get a bad rap as to the way the comparisons go.

The third issue is the dealership issue. I don't think we can deal with that today. There are two issues we can deal with in this loan and solve the problem. One is the capital structure. The other is the labor issue. Here is what I propose. We will be putting this forward, as Senator REID mentioned. We have some alternative legislation. I hope it is something both Democrats and Republicans can embrace. It is very simple. Let's go ahead and fund the money. Let's fund the money that has been requested. To Republicans, that is like debtor-in-possession financing anyway because these companies are basically bankrupt. To Democrats, the funding is in place to cause these companies to be whole. Let's go ahead and fund the request that has taken place.

Let's have three covenants. We can do this with a very short bill which we drafted. The first covenant is that by March 15, the outstanding indebtedness at the two companies that are going to apply for this has to be reduced by two-thirds or the companies have to file for bankruptcy on March 15. That gives the companies, the bondholders, which we have talked to on the phone, plenty of incentive to make sure the debt is reduced by two-thirds so these companies have a capital structure that allows them to go forward. This is the only way they will be successful. We have had plenty of people testify that if we put our money on top of the $62 billion in debt GM has, there is no way they can be successful, even if we are selling 20 million cars a year. Today, we know, we are selling at a 10 million rate. That is No. 1. Give them the money. If by March 15 they haven't reduced their capital structure in that regard—and we have talked to people on all sides who believe this can happen, but it can only happen with the stick of Government, meaning we are going to force them into bankruptcy if they don't do it. That is the first covenant.

The second covenant is, I have listened to Mr. Gettelfinger's testimony and talked to him on the phone this morning. He says the only way the UAW can make concessions is if they see the bondholders have done so first. This legislation makes that happen by March 15. So, secondly, after the UAW has seen that the bondholders have taken a ''haircut,'' a word that is used around here a lot, they have to do two things: No. 1, they have to convert half the VEBA obligation, the Voluntary Employee Benefit Association obligations. They have to convert half those to equity. If the company goes bankrupt, these future payments are never going to happen anyway. Again, that reduces the debt at GM by another $10.5 billion, and it gives the UAW equity in a company that actually has value now because the debt by the bondholders has been reduced. That is the second covenant—very simple.

The third action they have to take is at that same public meeting where they take a vote, they have to agree to have a contract in place that puts them in parity with companies such as Toyota and Nissan and Volkswagen and other companies here. Before everybody goes crazy over that, that is as certified by the Secretary of Labor. That is not something we prescribe. I realize there will be subtleties in that. There are comparisons that have to be made. To my friends on the left, that would be a Secretary of Labor by the Obama administration who has the ability to look at the various differences and nuances to actually certify that.

I have talked to Ron Gettelfinger this morning. Because of the debates we have had recently, I am probably not on his Christmas card list this year. I realize that. But he actually is talking with his leaders about this. I have talked to the COO at General Motors last night and this morning. He was the former chief financial officer. He agrees this will work. This gives the stick to the Government to make them have to do the things they need to do to actually cram down their bondholders.

I have heard a lot about Main Street and Wall Street. For those people who want to take an ounce or a pound of flesh from Wall Street, those are mostly the people who own these bonds. They will be taking this huge haircut, two-thirds. In GM's case, it is about $20 billion that would be converted to equity and take away a face amount of debt.

I plan to be here all day today. I would like to take 30 minutes off from 12:30 to 1 to give a talk someplace. But I would ask any Democrat, any Republican to please come down to the floor, call me, e-mail me, tell me why we couldn't put in place these three covenants which are very reasonable. They are the only actions that can happen in real time to make these companies successful. Let's pass a bill that causes these companies to be strong, gives them the money to breathe.

By the way, we had somebody testify the other day in Banking who said that if we give money to these companies in the form they are in today, we will end up giving $75 to $125 billion. I talked to the President of GM this morning. He says if we can make this happen—of course, the bondholders say we can, he says we can—that they will be limited in their request to only what they have asked for. They do not believe any more U.S. dollars will be required.

I ask my colleagues, why would we not take a simple piece of legislation, put it in place. It acts like debtor-in-possession financing. It does what we need to do to make sure the bondholders and the UAW themselves do the things they need to do to make the company whole. Management is already hamstrung by the bill. It lays out the items management must forgo for these loans to be in place. Let's leave here having done something that actually causes these companies to be healthy, vibrant, able to go into the future in a strong way for the first time in 30 years. We can do something great today, if we will only sit down and do it.

I ask my colleagues to do one other thing. We have tried to make this so complicated. There are three groups each of you can call to see if this will work. Call Chrysler, call General Motors, call the UAW and ask them if this will work. If there is a sentence we need to change, a comma we need to put in place, let's do it. But it is very simple. We have drafted a bill as if we are saving the world. We are talking about three companies alone, actually two companies today alone and three covenants can solve this problem, put them on a solid foundation, move them ahead. We will have done the right thing for the American taxpayers. We will have done the right thing for these companies, and we will have acted responsibly together in concert, doing something that, again, is right for our country.

Mr. President, thank you for the great length of time. I hope my colleagues on both sides of the aisle will come down and tell me why this will not work. Thank you very much.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. ISAKSON. Mr. President, will the Senator from Tennessee yield for a question through the Chair?

Mr. CORKER. Yes.

Mr. ISAKSON. First of all, Mr. President, I commend the distinguished Senator for all the work he has done on this issue over the last 2 months. But I

have one question. Is it not true that almost all those conditions in those three conditions you outlined were in whole or in part verbally contemplated by the automakers in terms of what it is going to take for them to come back and be profitable in the first place?

Mr. CORKER. No question. I say to the Senator from Georgia, they have come in our offices and actually—they have advisers. Their financial advisers have told them that they need for us to craft this legislation this way so they have the hammer they need to make the bondholders reduce their debt so they can be healthy. Without this kind of hammer, nothing is going to happen.

Look, you have read this bill. This bill says they have to have a plan to show a net present value in place by March 31—a plan. It does not say when it has to be accomplished. We can solve this problem so simply for them, for the United Auto Workers, for the State of Michigan.

By the way, for the record, I want to say I have a General Motors plant in my State. It is very important. It is modern. It has been invested in. We have a Nissan plant, and we have a Volkswagen plant coming.

The automobile industry is very important to me, as I know it is to you, I say to the Senator from Georgia. I thank him for that question.

Mr. ISAKSON. Mr. President, I say to the Senator from Tennessee, I thank you for your hard work.

Mr. President, I yield back.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I also thank the Senator from Tennessee for all his labors and what he has been through. Quite frankly, I came back from the Horn of Africa and Afghanistan on Saturday or Sunday—anyway, over the weekend—and when I saw all this stuff coming up, I knew from my experience in the Senate that nothing was going to happen for a few days, so I did not stay and work hard like my friend from Tennessee. I went back to Oklahoma. I do that now and then just to talk to normal people, to hear what these people have to say, as opposed to the bureaucrats and the stuff we get in Washington.

In a way, it is a little bit humorous. We went through the $700 billion bailout. I can remember everybody talking about Secretary Paulson coming down and saying: The world is going to come to an end if we do not do this. He said: We are going to have to do it.

Well, we did some calculations, and I do not think most of the American people realize when we talk about these numbers—whether it is $14 billion or $700 billion—how much it really is. If you did your own math when this stuff comes up—this is what I always do—there are 139 million families in America who file tax returns. If you take the 139 million families and divide that number into $700 billion, that is $5,000 a family. Now we are talking about something that is serious. When I tell people in Oklahoma that, that gets their attention.

So here we are talking about $14 billion right now. Nobody seemed to care before, and we just passed that matter by a huge margin: 75 to 24. I was one of the 24 who voted against the $700 billion bailout. But we passed it by that huge margin, more than 2 to 1. It is something that is so much bigger than the $14 billion we are talking about now. We are making a big issue about the $14 billion. Where was all the concern and outrage when we were talking about $700 billion?

So we watched it come along, and we saw that we gave the Secretary of the Treasury all the money that he was asking for. Then we find out that as to what he was going to use the money for, it was not used for that at all. He said, and I heard it myself—everyone in here heard it: the Democrats heard it; the Republicans heard it—if we don't have this $700 billion to buy out troubled assets, this whole country is going to go down—this doom and gloom. Once he got it, he did not do it. He did not come to us and say: Well, there is a different plan now. We are going to use it in some other way because I don't think this is going to work.

So that got my attention. I decided at that time: Well, if they are going to go ahead and give him this $700 billion, let's see what there is in that law that we passed that might be to the benefit of people who are concerned about this issue. I saw that it was broken into two parts. The first $350 billion pretty much was given to him to use at his discretion, which he did. He did not come to us and say he was going to use it in a different way. He just went ahead and did it. It is the first time in the history of America that anything close to $350 billion was spent in such a way.

Then we have in the law that was passed a provision that says if he needs the other $350 billion, he can go ahead and do that, and if there is not an objection—as a matter of fact, if he does this, and does this when we are out of session, we would be helpless to try to do anything to stop it.

So I introduced a bill. It is S. 3683. It is not going to be considered. I am not a member of the club, so that is not going to come up, although we have made an effort and we actually have some Democrats on the bill. That is something that uses the rules that are out there and says we can change the second $350 billion so it will take a positive act of Congress to allow them to access the second $350 billion.

Now, let's quickly jump back to the current issue. I wanted to put that in perspective because when we talk about $14 billion, compared to $700 billion, I just wish there was that much outrage when we were making that commitment. So here we are talking about one unelected bureaucrat to be known as the car czar—get ready for the car czar. We have only had one good czar in the history of America that I know of, and that was Bill Bennett when he was the drug czar. However, he was not given a blank check to spend a whole bunch of money. He is just a brilliant guy who was going to try to stop some of the stupid things we were doing in this country. That was back in the 1980s when the drug problem first surfaced as a major problem. He did a great job. I draw him out as an exception when I talk about czars. Now we are talking about a car czar. This guy is going to have the same bureaucratic power that Secretary Paulson had during the time he pulled off this $700 billion bailout.

Now, this bill makes the U.S. Government, the taxpayers, part owners of these companies. This $14 billion bill is one that is going to surface probably today. People are talking about, and the leader talked about, maybe we will go all the way through the weekend if we do not get something done. But the instrument that came over from the House yesterday to the Senate is most likely what we are going to be considering, and it is one that makes the Government part owners of these companies.

The car czar does not have any specific instructions, such as renegotiating some of the union contracts and some of the things that will have to be done. I looked at this early on, and I thought, as undesirable as bankruptcy is, I do not know of any other way you can actually force the tough negotiations that will have to take place. It has to be management and labor. It is not just labor; it is not just management. There has been mismanagement. But they would have to satisfy the courts that we have a system that will work.

I read an article in the New York Times from the middle of November, and it was entitled ''A British Lesson on Auto Bailouts.'' It discussed the British treatment of the Leyland automobile in the 1970s and 1980s. The article reported that the British Government ultimately spent—well, transferring this or putting this in U.S. dollars—they spent $16.5 billion—that is comparable to what we are talking about now—to bailout the British automobile company called Leyland.

The article quoted a top official from the Thatcher government, which reluctantly but ultimately backed the bailout. He said:

> I'm not telling the U.S. what to do, but the lesson of the British experience is don't throw good money after bad. British Leyland carried on for a few more years, but they are not there now, are they?

No, Mr. President, they are not. They are bankrupt after burning through the taxpayers' bailout dollars.

Now, why we now believe Government bailouts and Government ownership of shares of these companies is going to be a successful venture without a clear idea of what these companies would do to significantly alter their business models, and at least until well into next year—I do not

know why we think this because it has not happened. It has not happened successfully before.

In the New York Times, just a few days ago, Jeffrey Garten, who served as Under Secretary of Commerce during the Clinton administration, and who is now a professor at Yale University, was quoted as saying this:

> We're at this moment in history, in which the Chinese are touting that their system is better than ours with their mix of capitalism and state control and our response, it looks like, is to begin replicating what they've been doing.

Now, that is what he says we are doing: replicating now what the Chinese have been doing. I have to say this: I am very much concerned about the Chinese. I have spent quite a bit of time in Africa and other parts of the world. But in Africa, the Chinese, I think, pose the greatest threat to us. It is an economic threat as well as a military threat. But, nonetheless, does that mean we should be doing what they are doing? And we are replicating their system, according to Jeffrey Garten.

I cannot support Congress using taxpayer dollars to bail out yet another industry. I can remember when we were talking about this a few weeks ago with the $700 billion bailout. We were talking about this as if this were something that was going to be a one-shot deal. I said, standing on this Senate floor, that as soon as this goes through, they are going to start lining up.

I said: You are going to get not just the bankers, you are going to get the auto dealers and the airlines and everybody else out there saying, well, if this is what is out there, bail me out, too. I want to be bailed out.

So this is what is happening. We are now looking at one unelected bureaucrat administering a brandnew Government program with taxpayer dollars buying ownership in an industry. I think we have heard this one before. I know the American people have heard this before also.

This is exactly what Secretary Paulson did. I am talking about the massive $700 billion financial bailout legislation. Let's keep in mind, we are talking about an amount that is far less than that. We are talking about $14 billion.

I remember talking on the Senate floor when it looked as though we had $350 billion that was not going to be used. In fact, Secretary Paulson said—this was interesting—right before we went into recess, Secretary Paulson said: We have no intentions of using, no reason to use the other $350 billion. We have a reserve that we have not spent yet of about $15 billion.

I responded and said: Well, if you do not have any intentions of using it, let's go ahead and change the system so you cannot use it. I do not want to have us adjourn and find out: Oh, I think we will use another $350 billion, which is comparable to about $2,500 per family filing a tax return.

Well, the Congress gave Secretary Paulson the $700 billion in two installments, and we all know how that second installment is. I have authored two bills. One of them is S. 3683, sponsored by, of all people, BERNIE SANDERS, the one who is a self-proclaimed socialist, a guy who is on the opposite end of the philosophic specter from me. Yet he knows this is something that is wise: to have accountability for the $350 billion. I do not have her name on here, but I think Senator MIKULSKI might also have been on here because I was on the Senate floor with her, and she said it would be a good idea. We have Senators BARRASSO, WICKER, DEMINT, ROBERTS, and VITTER.

This legislation would freeze the unexpended expenditures of the original $350 billion and require an affirmative vote—is that asking too much—an affirmative vote to access the remaining $350 billion. It is automatic now. That is all we are asking for.

So I think that as we talk today—and, hopefully, this will be over tonight; I anticipate that it will because it goes on and on and on, and nobody, right before Christmas, wants to be working over the weekend when it looks like nothing meaningful is going to happen—let's bring it on, bring on the bill. Let's have a vote on it. Let's get it over with today, and, hopefully, we can reject it. think a lot of Members in this body, some of those who supported the $700 billion bailout, have a chance at redemption right now by opposing this legislation.

So, once again, let me just put it back in perspective. I came back from Afghanistan on the weekend and I saw the discussion take place, and I had an idea, through the experience I have on the Senate floor, that nothing was going to happen for the next 2 or 3 days, so I went back to Oklahoma and talked to real people.

By the way, I have to say this: I talked to a lot of dealers in Oklahoma about the idea of a car czar, and because of the prospect of a Washington bureaucrat telling the car manufacturers how to run their businesses and what kind of cars to make, it did not give them hope for the future. These people were opposed to it. I know a lot of the car dealers are for this. They are concerned about keeping the parts inventories and all of that, but I look at this, and I don't see any other way it can happen.

By the way, I would say concerning this bailout bill, I don't think they did anything to address the California waiver. This is something that has to be done if they are really sincere about this bill that came over from the House. Someone can correct me if they have corrected the problems of the California waiver; I don't think they have. Right now, there is litigation out there, where California wants to be able to determine what its tailpipe restrictions are. It is in the courts right now, but if they are successful, then that would mean we have 50 States that can determine what their emission requirements are in their State. You talk about one factor driving up the price of cars, that would be it.

Again, I don't know for sure what all is in this thing from the House, but I do know this: The basic bill is the same bill that we had before. It is based on a concept that the bureaucracy can run the free enterprise system better than the free enterprise system can, and it doesn't work. Let's solve the problem of the $14 billion, but let's get some people to join in with me on the Senate bill that will allow us to require an affirmative vote for the second $350 billion.

Let's put that in perspective: $350 billion as opposed to $14 billion. I think it deserves the attention of the Members of the Senate.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, I rise today to speak about the possible bailout of the Big 3 automobile manufacturers. General Motors, Chrysler, and Ford have come before this Congress asking for tens of billions of dollars from the taxpayers. This bailout, however, raises a number of questions that concern me greatly.

The economy of the United States is rooted in free-market principles. These principles, coupled with our Nation's entrepreneurial spirit, helped America become the richest and most innovative country in the world. Even though our economy is struggling right now, we cannot abandon those principles.

American automobile company executives have made many poor decisions over the past few decades. Those decisions combined with a poor economy, have put them in a desperate situation, particularly General Motors. It seems to me that this is exactly why we have Chapter 11 bankruptcy. Now, when I say bankruptcy, I am not talking about liquidation. That is Chapter 7 bankruptcy. Chapter 11 bankruptcy provides struggling companies with the opportunity to restructure responsibly so that they can transform into efficient and profitable firms. Chapter 11 exists to protect both the employees and the company itself by giving them a chance to get things right. The Big 3 should not view Chapter 11 as some sort of death sentence. Instead, they should see it as the best opportunity to put themselves on the same competitive footing with companies such as Toyota and BMW. Venerable companies in America such as Macy's and Continental Airlines have filed for Chapter 11 and have emerged as stronger, more viable companies. So why should the Big 3 be treated any differently?

I know these companies would say they are somehow unique and that bankruptcy simply will not work for them. I am not so sure about that. The Big 3 worry that today's financial environment would prevent them from securing debtor-in-possession financing from the private sector. They would need such funding to keep operating through a bankruptcy proceeding. This is where the government can step in. This would ensure that automakers have the funds to complete the Chapter 11 process.

The Big 3 also worry that few consumers would buy a car from a company that might not be around in a few years to stand by the car's warranty. Again, the government could step in and guarantee the warranties. After all, what is a better backup of a warranty than the full faith and credit of the U.S. Government? And if the government took these steps, wouldn't that give the Big 3 a good chance to successfully reorganize through Chapter 11 bankruptcy?

The Big 3 have testified before Congress that they would require about $34 billion to avoid liquidation. They would need this help over the next year or two. Many independent analysts, however, believe that number may triple that. Frankly, I am more inclined to believe the independent estimates are closer to reality. After all, the Big 3 have time and again proven unable to adequately plan for the future. Why should we believe their projections now? With the deficit reaching $1 trillion or more next year, why aren't we having a debate over the true cost of such a bailout? We should be worried about the U.S. taxpayer.

In this legislation, there has been talk about creating a ''car czar'' to oversee any restructuring that would accompany a bailout. This czar, however, would not have nearly the same sort of powers a bankruptcy court judge would have under Chapter 11. Injecting a government bureaucrat into the process is not a serious solution. If you have been around Washington long enough, you know it is more like a serious problem. Wouldn't it be better to have an expert such as a bankruptcy court judge oversee the process?

Not only would a bankruptcy judge have more tools than a car czar, but the judge would not be influenced by the political process. A bailout would invite all sorts of meddling from lawmakers to have the companies carry out their own pet policies. We should not be using this bailout as a vehicle to implement domestic social policy.

Not to mention that creditors or stakeholders will just lobby Congress to make the sort of concessions that would be required of them under the bankruptcy. We see this sort of lobbying right now with the TARP program. Everyone is trying to tweak the program to benefit their own narrow self-interest. Why would we expect the auto unions or suppliers or dealers to behave any differently? I worry that politicizing the restructuring of the Big 3 would jeopardize any chances of success they may have.

All this talk of government-directed restructuring also raises bigger picture questions. Why does Congress think we can succeed where so many businessmen have already failed? What sort of experience in the car-making business does this Congress have? Last I checked, none of my colleagues have a background in running a car company. And this car czar seems doomed to failure too. One government bureaucrat to oversee the reorganization of three massive companies? What track record can we point to that makes us think this will work?

This strikes me as a questionable intervention by the government into the private sector. We have the government thinking it can run these businesses better than they can. Heck, we cannot even run the government. We also have the government choosing which individual companies deserve help and which do not. This is not what the Government should be doing. Government should not be picking winners or losers in the private sector. For the long-term health of the country's entrepreneurial-based economy, this could be a dangerous precedent.

One of the companies asking for a bailout is Chrysler, which is owned by an investment fund known as Cerberus. Some reports indicate Cerberus may have significant asset holdings, into the billions of dollars. But it appears Cerberus has done nothing to infuse any emergency cash into Chrysler to save it. Why should the government bail out Chrysler, when its own parent company seems unwilling to offer any help?

If we bail out the car companies, what does that mean for other struggling industries? The automakers are not the only ones suffering today in this bad economy. Would we have to bail out every large company in every major industry? Tourism is one of America's biggest industries and has a high employment multiplier, much like the auto industry. Hotel rooms are going empty as consumers cut back on travel. Many state economies, such as in my own State of Nevada, are hurting because of the downturn in consumer travel. Should the hotels receive a bailout? How about the newspaper industry? We know their businesses are hurting too. The Tribune Company filed for Chapter 11. Should we be bailing them out as well? Where do we draw the line? Can we even draw a line once we have given the Big 3 a bailout?

The proposed automaker bailout is indicative of a big-government approach to dealing with our economy. We are in the midst of a recession, yet we have come back for a late session of Congress to talk about saving just three companies. Why aren't we considering pro-growth policies to help the larger economy? We should be considering long-term, pro-growth tax cuts rather than searching for ways to spend more of the taxpayers' money. For instance, lowering the corporate tax rate would put more money back into the hands of companies all across America. This would help companies stay afloat and to avoid cutting jobs during these difficult times. Instead, the Democrats are looking to spend money on bloated, uncompetitive automakers.

As we debate whether to loan billions of dollars to the automakers, I urge my colleagues to consider all the important questions I have raised today. This issue is not as simple as answering ''how many jobs might be lost?'' or ''how much it will cost the government?'' We must also consider questions such as ''what is the Government's proper role during this economic downturn?'' ''What could be the unintended consequences of our actions?'' ''Are we setting a dangerous precedent for needless political intervention?'' ''How might this affect our ballooning deficit?'' ''Are we taking the best course of action for the long-term health of the U.S. Government?''

We would do America a disservice by approving any bailout package for the Big 3 before finding at least some consensus on these questions. Furthermore, I believe we must look more closely at Chapter 11 as a viable option for the automakers. Chapter 11 reorganization for any of the Big 3 is far from ideal, but we do not live in an ideal world nor during ideal times. We should not dismiss one of the most powerful tools available to us so readily.

I hope my colleagues will think long and hard about the issues I have raised today before making any decisions about the possible bailout. If this bailout package that is before us today fails, we can rewrite the bill and do it in a way that is better for the U.S. auto manufacturing industry. American taxpayers deserve nothing less.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. CARDIN. Mr. President, I ask unanimous consent that the period for morning business be extended until 12 noon, with Senators permitted to speak therein for up to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AUTOMOBILE INDUSTRY CRISIS

Mr. VITTER. Mr. President, I stand to again address the key issue before us that affects so many Americans, American families, and indeed all of us, through our economy: the proposed U.S. auto industry bailout.

Yesterday, I stood here and announced two conclusions I was driven to reach. First, I would have to strongly oppose the bailout package in its present form because I don't think it demands the fundamental restructuring it will take for those companies to survive. Second, because of that very point, I would use every procedural tool available to block, stop, and delay that package from passing into law.

I, again, reached those conclusions. I restate that commitment for one very simple, very compelling reason—because so much is at stake; because we need to get it right; because millions of individual workers and families, and indeed all of us, through our economy, will suffer the consequences of our not taking appropriate action.

Again, let me be clear, I am not trying to block this package in spite of job losses that would occur if these companies went down. I am trying to block this package because of that, in light of that, because this package doesn't demand the fundamental core restructuring that is absolutely necessary for these companies to survive.

This package puts those companies down a road where I believe that is unlikely to ever happen. It would throw a lot of taxpayer dollars at the problem to buy time, but it doesn't change the endgame, in my opinion.

Let me also make clear, having said all that, I am not for doing nothing. I am not for going home and forgetting about this and walking away. This is a serious crisis we must address. I am for doing something, but the right thing, the right way, something that will ensure, demand the fundamental core restructuring it will take for these American companies to survive.

What do I mean by that? I could support a few alternatives. Let me outline two specific alternatives that are being worked on now, that have been developed, that are being discussed by many Members that I could support. First of all, I could certainly support a strong, comprehensive alternative being developed by Senator BOB CORKER of Tennessee and others. That proposal wouldn't throw $14 billion at the company before any outline of a restructuring plan is agreed to. It would say: No, we need to agree and nail down and ensure some of those fundamentals now, before any taxpayer dollars go to those companies.

What are those fundamentals? Senator CORKER outlines four that I agree are at the core of the issue and must be nailed down before any taxpayer dollars should go to those companies.

First, his proposal would require that participating companies reduce their outstanding debt obligations by at least two-thirds by forcing the companies' bondholders to accept an equity swap or debt for debt and equity swap—in other words, for the taxpayer dollars we would be sending to those companies not to boost the take, not to boost the value of bonds for those bondholders, but for the bondholders to contribute something up front to reduce the debt of the companies. That is crucial because right now those companies, particularly GM, are drowning under unbelievable debt, and that alleged loan would be on top of that. So that is crucial.

Second, we would agree up front that the companies would become more competitive by requiring that all-in labor costs and work rules would be immediately on par with other automaking companies such as Nissan, Toyota, and Honda. Obviously, a major source of the uncompetitiveness of the three U.S. automakers is their labor costs. They cannot possibly compete in this global marketplace when their costs are way, way higher, 80 percent higher than competitors such as Toyota, Honda, and Nissan. This aspect of the Corker plan would ensure that is nailed down up front.

Third, the legislation would require that changes in payments to the UAW VEBA accounts occur to help the companies' cash flow, specifically that at least half of any scheduled payments be made in stock. There again, it would reinforce the sense that the workers and the union have a real stake in all of this working and in those companies surviving.

Fourth, any compensation, outside of customary severance pay, that goes now to workers who have been fired or laid off or furloughed would end. Again, a major cost to these U.S. companies, a major source of their uncompetitiveness is they are paying lots of money, tens of millions or billions of dollars for people not to work, for people not to work.

That is a plan I could support. That is not putting the cart before the horse. That is getting things in the right order, nailing down that essential restructuring now before any taxpayer dollars go out the door.

A second alternative I could support would involve a formal bankruptcy process. A lot of folks make the argument that bankruptcy is not an option, that consumers will never buy a car of a company in bankruptcy; they don't know if the warranty will be there or be good 6 months or a year from now. We can fix that problem. We can address that problem with appropriate limited Government assistance and participation in the formal bankruptcy.

Specifically, I would support a plan whereby the Government could play that role in two limited, specific ways: one, backing up the warranty obligations of the companies with the full faith and credit of the U.S. Government so consumers can retain that confidence and, two, providing debtor-in-possession financing if that is necessary. I believe the Government playing that crucial role, or something akin to that, can make a traditional bankruptcy process work.

Again, Mr. President, I stand before you and my colleagues in the Senate—indeed, all the American people—to urge us to adopt one of those alternative paths, to urge us to think outside the tiny constricted box folks have tried to put us into and find a third way, a better way which does exist. There are folks who argue it is this or bust. Quite frankly, that is baseless fear mongering. There is another way. There is a third path and a better way. I have outlined two just in the last few minutes. Let's choose that better path. Let's do the responsible thing. Let's demand the fundamental core restructuring it will take for these companies to survive. And let's demand it and nail it down now, not throw billions of taxpayers' dollars at them simply upon the request that they sit down to begin to think about such restructuring. That is the plan before us. That is unreasonable. That is not an appropriate role for the taxpayers. But these two alternatives I outlined would be far different, would demand and ensure that core fundamental restructuring happens.

Mr. President, I urge all of my colleagues, Democrats and Republicans, to join me in voting no on the important vote tomorrow morning on the present plan and to say yes to real restructuring, fundamental core restructuring that can save a maximum number of these jobs in America.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, these are, indeed, turbulent times for the U.S. economy. Over the past several months, Americans have seen giant companies fail, significant job losses, and, after unprecedented problems in the credit markets, the frightening prospect of total disarray within our Nation's mainstream economy.

The crisis in the credit markets came at us quickly. We were told that urgent Government action was needed in order to shore up the broader economy and that failure to act would lead to a complete collapse of consumer credit, the very lifeblood of our Nation's economy. Under ordinary circumstances, I would have opposed such a measure. Government intervention in the marketplace,

frankly, cuts against all my ordinary impulses. But this was not an ordinary event. I and many others believed that extraordinary action was needed to protect millions of ordinary Americans from the colossal and far-reaching mistakes of a few. And action was taken. The systemic breakdown some envisioned has not occurred. So there is reason to believe the medicine has had some effect. But on the whole, the overall economy continues to struggle. Some industries have been hit harder than others, and one of them certainly is the auto industry.

The problems in the auto industry have been long in the making. But last month the situation grew so dire that American automobile makers came to Washington with an urgent appeal for Federal help. Over the past few weeks, lawmakers have taken the time to examine the problems of these companies and the solutions that have been proposed. Now the American taxpayers are being asked to put their money behind a plan that is aimed at helping these companies survive.

Republicans received that plan late yesterday morning, about this time yesterday. We reviewed it closely to see if it meets the criteria I have laid out repeatedly for taxpayer protections and for an effective strategy for securing the long-term viability of these companies. In the end, I concluded that it does not.

In some ways, the proposal that was worked out by the White House and congressional Democrats appears tough. It calls on struggling auto companies and auto workers to make the sort of sacrifices they have not been accustomed to making in the past. It also includes time limits as a way of hastening necessary reforms. But in reality, this proposal is not nearly tough enough. A primary weakness relates to the so-called car czar who has nearly unlimited power to allocate taxpayer dollars but limited ability to force the kinds of tough concessions long-term viability would require. Another problem lies outside the proposal itself, and here I am referring to the type of Government action that is being contemplated.

Somewhat lost in the recent debate over the auto industry is the fundamental difference between it and the financial rescue plan Congress approved in October. While that plan was intended to rescue the entire economy, this one is intended to save a single industry. That plan was intended to help everyone from small business owners to college students, and every lawmaker who voted for it acted in the belief that is exactly what it would do. A failure to appreciate this distinction has caused a number of other industries and even a number of municipalities across the country to prepare their own proposals for Government rescue, as all Americans weather the tough economy. It has also created the impression in some minds that the Federal Government is picking favorites and that favorite businesses get help while others do not. A lot of struggling Americans are asking where their bailout is. They wonder why one business would get support over another. When it comes to the auto industry, many Republicans in Congress have asked these same questions.

There are many principled reasons to oppose this bill. But the simplest one is also the best—a government big enough to give us everything we want is a government big enough to take everything we have. This is as true for individuals as it is for business. It is the primary principle upon which American industry, including the auto industry, was built. Even in turbulent moments such as this—perhaps especially at moments such as this—it is a principle worth defending.

Now, some argue the effects of the auto industry collapse would be too acute and far-reaching for an already struggling economy to bear. This is impossible to know. Even if we grant that these companies would fail without taxpayer help, we would still have to ask ourselves whether the proposal before us achieves the goal everyone claims to embrace; namely, the long-term viability of ailing car companies. In my view, it does not.

I have already enumerated some of the weaknesses in the plan. But in the end, its greatest single flaw is it promises taxpayer money today for reforms that may or may not come tomorrow. We would not be serving the American taxpayer well if we spent their hard-earned money without knowing with certainty that their investment would result in stronger, leaner automobile companies that would not need additional taxpayer help a few months or weeks down the road. We simply cannot ask the American taxpayer to subsidize failure.

Now, all Americans, including myself, are worried about the future of our Nation's automakers. These companies have a venerable place in the story of modern America. They continue to provide hundreds of thousands of jobs across the country, including 50,000 auto-related jobs in my home State of Kentucky. But many Americans are also worried about the prospect of the Government intervening on behalf of some industries and not intervening on behalf of others, especially when there is no guarantee—no guarantee—that the interventions will work. They wonder when the spending stops. If I were to vote in favor of this bill, I would not have a very good answer for them.

The best route for the long-term viability of ailing car companies may be a rocky one. Government help is not the only option. It is not even the best option. Long-term viability is still possible, but it is only possible if these companies are forced to make the tough choices necessary for their survival.

My colleague, Senator CORKER, has proposed an amendment that would go a long way toward improving this bill. In keeping with the principles I have outlined before in these comments this morning, the Corker amendment does not just encourage reform—it doesn't just encourage reform—it requires reform. It does so with crucial specificity. First, participating companies would be required to reduce their outstanding debt by at least two-thirds through an equity swap with bondholders. The Corker amendment also requires that labor cost at participating companies be brought on par with companies such as Nissan, Toyota—which I also have in my State—and Honda, not tomorrow but immediately because it is delusional to think a company which spends $71 per labor hour could compete with a company in the same industry that spends $49 per labor hour.

The Corker amendment would improve the liquidity and cash flow of automakers by requiring that a portion of the payments made to the union accounts consist of company stock. Finally, the Corker amendment would require participating companies to file for chapter 11 reorganization if any of these conditions—if any of these conditions—aren't met by a fixed date.

The Corker amendment forces necessary reforms, holds companies accountable, and assures taxpayers that these companies will not be back for more. If legislative action were necessary, the Corker proposal would make many much needed and dramatic improvements to the underlying bill.

I, similar to all my colleagues, want the U.S. auto industry not only to survive but to thrive. By cutting costs, streamlining production, increasing fuel efficiency, and investing in new technologies and attractive, more competitive designs, American auto companies will once again make cars people all over the world will want to buy. Then, Americans would be able to say, again, with pride that our cars are the best.

In addition, protecting the taxpayer is a goal Republicans have been fighting hard for in this debate, and in my view it is a goal that is well worth our efforts.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, what is the order?

The PRESIDING OFFICER. We are in morning business, with a 10-minute time limit. There is no unanimous consent request on the order of speakers.

Mrs. BOXER. Mr. President, I ask unanimous consent to speak for 20 minutes.

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

Mrs. BOXER. Mr. President, I have to say we are now here, approaching Christmas, in a deepening recession. On December 1, the National Bureau of Economic Research said that, in fact, the recession had begun in December 2007.

How many jobs have been lost in the last year? Almost 2 million jobs have been lost in the last year. So we are here today on the heels of a loss of 2 million jobs. The unemployment rate stands at 6.7 percent, and it is growing. In my State, it is 8.2 percent. Today, the Labor Department reported that initial applications for jobless benefits rose to 573,000, the highest number in 26 years.

So when I hear someone come to the floor and say: Gee, I didn't get all the language until a couple days ago and this is a problem; you know, sit down and read the language. We cannot afford to say we are not going to do something and act to turn around this recession because somebody didn't have the time to read the bill.

Consumer confidence has plunged to its lowest level since the survey began in 1967. Gross domestic product has dipped, personal spending decreased 3.7 percent in the third quarter, and according to the CBO—the Congressional Budget Office—American workers lost more than $2 trillion over 15 months as the stock market decline devastated retirement accounts. Let me say that again. American workers lost more than $2 trillion over 15 months as the stock market decline devastated retirement savings accounts. So we are dealing with a crisis.

Compared to a year ago, U.S. foreclosure filings increased 71 percent in the third quarter. The Institute for Supply Management Index, which is a key gauge of U.S. manufacturing activity, fell to a 26-year low in November. Manufacturing activity fell to a 26-year low in November. Home prices, tracked by S&P's 20-city housing index, dropped 17.4 percent in September. That is a record—the fastest decline on record. Do you hear what I am saying? The job losses, the jobless claims, the foreclosures, the stock market, everything is going in the wrong direction. For people who don't know what the fundamentals of the economy mean, that is the fundamentals of the economy. That is the fundamentals—unemployment, housing prices, stock market, retirement incomes.

Construction spending fell by 1.2 percent in October, much more than what was expected—another fundamental of the economy. Construction of single-family homes plunged 4.6 percent from September. Sales at the wholesale level plunged by 4.1 percent in October. That is nationwide.

My State of California trails only Michigan in the total number of auto-related jobs. In fact, there are nearly 200,000 Californians employed by auto dealers, manufacturers, and wholesalers whose livelihoods are at stake.

At the Vehicle Accessory Center in Rancho Cucamonga, CA, 50 workers manufacture auto parts for GM cars.

The general manager, Russell Hoyt, writes that without a bridge loan to the Big Three, ''we run the risk of losing all of the gains we've made over the years to make our company more competitive and to build new technologies and cars that will benefit consumers and improve our nation's energy security.''

Gina Underwood, the controller of a Saturn dealership that employs 48 people in Ontario, CA, wrote to me about the impact the credit market is having on her business.

She says ''the potential trickle down into my community borders on catastrophic.'' She adds that ''helping our industry in the short-term will have a much lower cost than addressing the effects of a failed industry in the midst of an economic turnaround.''

The Los Angeles Federation of Labor says the decline in the auto industry is ''responsible for nearly 11 percent of California's job loss in the past year. It has also robbed millions of dollars from state and local treasuries that are responsible for funding some of our most crucial public services.''

The California chapter of the United Auto Workers writes that ''these loans will enable domestic auto companies to continue operations and will avoid putting thousands of people out of work.''

Mr. President, I ask unanimous consent to have printed in the RECORD the California recession figures.

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

CALIFORNIA RECESSION FIGURES

In California, the unemployment rate is at 8.2 percent—the highest in 14 years.

California has lost 101,000 jobs over the past year and 487,000 more people were looking for work in October than were doing so a year ago.

1.5 million Californians are out of work.

The University of the Pacific Business Forecasting Center has predicted that the state's unemployment rate will peak at 9.6 percent the end of next year and won't dip below 9 percent until 2011.

Through the first three quarters of 2008, more than 189,000 California homes were lost to foreclosure.

The number of California homes in foreclosure totaled 79,511 in the third quarter—more than triple last year's number.

In cities like Los Angeles, San Francisco, and San Diego, housing prices have declined more than 25 percent.

In October 51 percent of homes sold in Southern California were in foreclosures, compared to 16 percent the year before.

A recent report stated that over 27 percent of California homeowners are already ''underwater,'' or have negative equity in their home.

The Joint Economic Committee estimates that California state-wide home prices will fall 17 percent between 2007 and 2009, resulting in a net loss of over 1 trillion in housing wealth.

The state budget shortfall for next year could reach $28 billion.

Mrs. BOXER. Suffice it to say that 1.5 million Californians are out of work, and in the third quarter we had 79,000 foreclosures, more than triple last year's numbers. We have a State budget crisis, some of it emanating from this downturn, and we have to step up to the plate and do our part. Whether we live in a city, whether we live in a county, whether we work for the people as a member of a city council, whether we work as a county supervisor, whether we work as a mayor or a House Member or a Senator, all of us who work for the people have to step up to the plate.

I did something interesting, and it might be of interest to you. I worked with my staff. We have 58 counties in California and we got on the phone and we talked to the leaders of each of those counties and the 10 major cities in our State. We do have 38 million people in our State. They told us what is happening on the ground there, and it is not a pretty picture. Now, some of them are doing better than others. A lot of them are facing unemployment rates in their cities of 13 percent, 12 percent, and 9 percent. In the inland empire area, which is just east of Los Angeles, we have the highest unemployment rate in the Nation, about 9.1 percent.

So the point of my setting the stage for my remarks by giving a broad look at what is happening is to make sure people understand we are not taking up this auto rescue plan in normal times. If it was normal times, that would be one thing. I wouldn't be that sympathetic to the big three in normal times. I have had my arguments with them since the 1980s. I think their fighting California and the 19 other States that want better fuel economy is a huge mistake on their part, and I don't want to reward them for that. But I have to tell you, when you look at the times we are in, you recognize we need to bridge these troubled times right now, bridge these troubled times with a loan so we can take a look at this when we have a new President, a new Congress, and, frankly, when we begin to see a light at the end of this tunnel, which I believe is going to come when our new President comes to us in January and we start to put together a plan for economic recovery.

How tragic would it be if we lost this manufacturing base at this point in this recession, just as I do believe we are going to pull ourselves out of this mess we are in. We need a bridge to better times for the auto industry. By the way, other countries around the globe are doing the same for their auto industries. Because there are two things happening here. Detroit got in trouble because, in my view, they built those big cars, they didn't diversify their fleet, and they fought us on fuel economy. Believe me, I was in that fight against them every step of the way. They won that fight. But now they are losing at the end of the day because they made a mistake in fighting us.

But we don't want to lose this manufacturing base at this time. We would be the only industrialized nation in the world not to have a domestic auto industry.

When I hear my colleagues say I don't like this little sentence here or that sentence there, I understand that. Believe me, there are a lot of things in

these bills I do not like at all. But we have to step back and say, in these troubled times, unparalleled since the Great Depression, do we want to leave here and risk the chance that we could wake up without a manufacturing base in our great Nation? I say the answer is no.

I have three reasons for voting for this rescue package: Jobs, jobs and jobs. When we were hit with foreclosures, the first round of them, they had to do with predatory lending. They had to do with some things that were outrageous—people put in these subprime loans who could have been in prime loans. They woke up one day when they were paying $400 a month and suddenly it is $1,000 a month. They couldn't do it. We hope those loans could be restructured. That is one set of difficult circumstances for going into foreclosures. The far worse set of circumstances is when you lose your job and your family cannot make it. That is the thing I wish to avoid.

My focus is on this economy and making sure we are doing everything to save, preserve, and create jobs. With each passing day, we realize what a crisis we are in. Again, today we found out more people filed for unemployment compensation, a bigger number than we have seen in 26 years. When I heard we lost 533,000 jobs last month, it sent shivers up and down my spine. If we don't act, we risk seeing another 2 to 3 million jobs that could be at risk. We know even the collapse of one of the big three could cause that.

In my home State, we have 200,000 auto-related jobs, second only to Michigan.

At the Vehicle Accessory Center at Rancho Cucamonga, our general manager there writes that without a bridge loan to the big three:

> We run the risk of losing all the gains we've made over the years to make our company more competitive and to build new technologies and cars that will benefit consumers and improve our nation's energy security.

Gina Underwood, a controller at Saturn of Ontario, employing 48 people in Ontario, CA, wrote to me about the impact of the credit crisis. She says:

> The potential trickle down into my community borders on catastrophic.

She adds:

> Helping our industry in the short-term will have a much lower cost than addressing the effects of a failed industry in the midst of an economic turnaround.

The Los Angeles County Federation of Labor says the decline in the auto industry:

> . . . is responsible for nearly 11 percent of California's job loss in the past year.

The California chapter of the United Auto Workers writes:

> These loans will enable domestic auto companies to continue operations and will avoid putting thousands of people out of work.

I ask unanimous consent to have these letters printed in the RECORD.

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

VEHICLE ACCESSORY CENTER,
Rancho Cucamonga, CA, November 12, 2008.

Senator BARBARA BOXER.

DEAR SENATOR BOXER: I own a company that exclusively provides goods and services to General Motors Dealerships in Southern California. I am writing to urge you to support GM and America's domestic auto industry. Our company employs up to 50 people and there are millions more Americans among suppliers, dealers, retirees and communities that depend on our industry for their livelihood and well-being.

All of us need your support now. We cannot sustain our industry because of the worst financial crisis to hit our country in over half a century. We run the risk of losing all of the gains we've made over the years to make our company more competitive and to build new technologies and cars that will benefit consumers and improve our nation's energy security.

Our industry is the real economy that runs through Main Street. I call on you and your Congressional colleagues to help preserve jobs and help the domestic auto industry weather this financial storm. With your support, I know my company will emerge stronger and more competitive. And, that means a stronger economy and a more competitive America.

I have attached an industry fact sheet that really demonstrates the critical nature of this industry to our economy. I look forward to seeing you take an active role in passing legislation to support this critical economic need.

Sincerely,

RUSSELL R. HOYT,
General Manager/Partner.

SATURN OF ONTARIO,
Ontario, CA, December 2, 2008.

Hon. BARBARA BOXER,
Washington, DC.

DEAR SENATOR BOXER: My name is Gina M Underwood and I am the Controller at Saturn of Ontario. My dealership employs 48 with an annual payroll of $1,986,059. Our business also supports dozens of local suppliers that are intertwined in our community providing multiple more jobs. I am writing because I fear much of this will be lost and the impact to my community severe if the domestic auto industry is allowed to fail under the weight of the current economic chaos. I believe I have good reason to request your support.

The negative effects of the global credit crisis have caused a huge downturn in consumer confidence that I see play out on my car lot every day. I have seen my sales plummet to levels not seen since World War II. The manufacturers who supply me can't get credit to complete their restructurings and put advanced technologies into production, my customers can't get credit to buy the new cars off my lot and I can't get credit to finance my monthly inventory. The potential trickle down into my community borders on catastrophic.

Hundreds of jobs in my community will be lost.

Multiple suppliers will go under.

On a broader scale, billions of dollars already invested in asserting U.S. technological leadership for advanced propulsion systems—in batteries, fuel cells, hybrids and biofuels—will be lost.

Our manufacturing ability, critical for our national security is threatened which only exacerbates our dependence on foreign oil.

The critics say that the industry has not done enough to save itself. They could not be more wrong. The auto manufacturers have been investing $10 billion in plants and equipment each year. The quality gap has been all but erased between U.S.-based and foreign manufacturers. And new labor agreements that will put the domestic industry in line with our foreign competitors will take effect in 2010.

I cannot urge you strongly enough to take action on behalf of my community and my industry. Helping our industry in the short-term will have a much lower cost than addressing the effects of a failed industry in the midst of an economic turnaround. Sadly, I fear the price of inaction is greater than my business can bear. Thank you for your time to hear my concerns.

Sincerely,

GINA UNDERWOOD.

LOS ANGELES COUNTY
FEDERATION OF LABOR, AFL–CIO,
Los Angeles, CA, December 5, 2008.

Senator BARBARA BOXER,
Los Angeles, CA.

Hon. BARBARA BOXER: I write to you out of concern for the millions of autoworkers who will lose their good jobs if federal emergency aid isn't passed for automakers and because the industry's downfall is responsible for nearly 11 percent of California's job loss in the past year. It has also robbed tens of millions of dollars from state and local treasuries that are responsible for funding some of our most crucial public services.

While we in Los Angeles are fortunate not to be home to an industry that is on a verge of collapse, we are the nation's capitol of the working poor. In my many years leading the union representing hotel workers, I have come to witness how low-wage workers struggle just to get by. They struggle to feed their children, pay their bills and rent. When their children fall ill they rely on home remedies instead of taking them to the doctor because they simply can't afford it.

My concern for workers if the emergency assistance fails to pass is not whether they will find another job elsewhere, but what will become of them in that next job. I worry that it will force them into our nation's ranks of the working poor. In my 30 years in the labor movement I've come to learn that poverty in our communities doesn't stem from a lack of jobs. It stems from a lack of good jobs that provide middle class wages and benefits—jobs that provide the pathway to reach the American dream.

As leaders, you as a public servant and I as a labor leader, have a moral responsibility to fight for good jobs that allow men and women to raise their families with pride, dignity and with the piece of mind that a secure retirement brings. We must do everything possible to ensure that the industry that was once the backbone of our middle class rises to those heights once again, So I urge you today to vote for government aid to automakers.

In solidarity,

MARIA ELENA DURAZO,
Executive Secretary-Treasurer.

UAW REGION 5,
Fremont, CA, December 1, 2008.

Re Bridge Loan for the Big Three.

Hon. BARBARA BOXER,
San Francisco, CA.

DEAR SENATOR BOXER: On behalf of the UAW postdoctoral research members who reside in San Francisco, we would greatly appreciate it if you would take some time away from your busy schedule to meet with us before December 8, 2008, here in the City.

The purpose of our meeting is to help you understand the serious issues that the UAW is facing concerning the Big Three auto loans. These loans will enable domestic auto companies to continue operations and will avoid putting thousands of people out of work. We also need to remember that suppliers who make certain parts for auto companies will be affected by this as well. Let's

not forget that the auto industry has been woven into the fabric of the United States of America, and without it, we will fail.

This is an extremely important issue to all of us. Please would you contact my secretary, Veronica Morgan, at (510) 656–9901, and let her know the date and time you will be available. You can also contact me on my cell, (510) 299–7399.

Sincerely,

PAT CACCAMO,
UAW CAP Representative, Region 5.

Mrs. BOXER. Mr. President, the unemployment rate in my State, again, is 8.2 percent in California; 8.2 percent. It is rising. Losing another 200,000 jobs at this time is catastrophic. If we leave and we risk that, then it is our fault. The people who vote this way will have to answer to their own consciences. Failure to act is not an option.

Here's the thing, there is a huge cost of inaction. I understand my colleagues are very concerned about the cost to taxpayers. I share that concern. I never heard them talk about that when their States were giving all kinds of incentives to foreign car companies to come in. I will get to that later. But here is what happens in addition to the massive job losses if the big three fail. The burden on taxpayers to pick up the pieces would be much more costly than these loans. Losing GM, Ford or Chrysler would add billions of dollars in costs to the already depleted Pension Benefit Guaranty Corporation. Taxpayers would have to provide health care, unemployment benefits, and other related services. Unfunded health care liabilities would be forced into Medicare and Medicaid with costs reaching $50 billion. If the automakers file for bankruptcy, it could lead to a $108 billion loss to the Treasury because of reduced individual income.

My colleagues say let them go bankrupt, as if it is a magic solution. It is not a magic solution because the polls tell us 80 percent of the people will not buy a car from a bankrupt automaker because of obvious reasons. If you want to keep your car 3, 4, 5 years—I keep mine 9 or 10 years—you want to make sure you have the parts available to fix your car. You want to make sure you have someone who understands the car and can service the car.

This is not similar to a dress company going out of business and declaring bankruptcy. That is sad and it is tough but, you know, you are not going to worry about it. If you have a dress by someone and the company goes out of business, you are not going to be dealing with that manufacturer. You are if you buy a car. By providing $14 billion in loan authority now with requirements that the money be paid back, we are taking steps to protect taxpayers from at least $150 billion in future liabilities, should the auto companies shut down.

Then there are people who say isn't this the first of what could be many interventions? I can't predict that. I am just saying at this time, now, with what we know about the state of this economy, with what we know about the state of the lost equity in the market, with what we know about the state of housing, of construction, of the number of people filing—this the Christmas season. My goodness, let's take a chance on this. Let's take a chance on this.

The administration gave $150 billion to an insurance company. I never heard anybody at that time say: Well, the workers in that insurance company make too much money. That is the problem. You never heard a word about that from my Republican friends. Blaming the workers for this is outrageous. They have given back and they have given back and they have given back.

What would happen to the thousands of other associated businesses that rely on GM, Ford, and Chrysler if they went belly up? The big three share 80 percent of the supplier base in this country. If one of the companies goes bankrupt, these small- and medium-size businesses could lose significant revenue and be forced to make layoffs or close their doors.

I wish to talk about other countries taking significant steps to support their domestic auto manufacturing base. Countries throughout Europe and Asia are providing assistance to their auto manufacturers during this time of crisis. You take all the auto companies now—take Toyota. Their sales are way down. Everybody is hit by this recession. The question is, Do we abandon this manufacturing base? Credit markets are still frozen. For that, I have to say, and let me be clear—I don't understand what Mr. Paulson has done since we gave him that authority for $350 billion. Why are the credit markets still as frozen as they are?

The answer comes back: It could have been worse. I believe that. It could have been worse. But we need to do a better job there. Let me be clear, I am not voting—if I have to vote today, tomorrow, next week—to release the next $350 billion to this administration. So let me put that on the line.

Other countries are recognizing that, with the credit markets frozen, they need to maintain their strong manufacturing base. We are the greatest country in the world. How could we ever continue our leadership if we lose that manufacturing base? I know Senator STABENOW has been quite eloquent on the point, about how integrated the manufacturing base is with our military and national defense infrastructure. The big three automakers are the biggest customers for many of the major suppliers of parts and technology for the armed services. From onboard computer devices to tires to engine machinery, these suppliers often rely on the big three to sustain their businesses.

I say to my colleagues on the other side who are taking the lead against this: Think about it. We all stand for a strong defense. If you lose this manufacturing base, whom are you going to rely on if we have more national emergencies, international emergencies? We know we cannot afford to lose this base.

I mentioned before that some of my colleagues on the other side—the Senator from Alabama, the Senator from Tennessee—they have been very outspoken against helping the auto companies. Where were they when Alabama provided $258 million in taxpayer-funded incentives to the foreign automaker Mercedes-Benz to build an auto manufacturing plant in the State of Alabama? I never heard them speak up. Do they only speak out against American workers who work for American companies here? They support the foreign companies, not the American companies.

Tennessee offered at least $200 million in incentives to Toyota to build an assembly plant in Chattanooga. Instead, they landed in Mississippi. Mississippi provided Toyota $296 million in taxpayer-funded initiatives. Why don't I hear my colleagues from Tennessee or Mississippi out here saying: Oh, that was a mistake. Taxpayers should not have been on the hook.

Something is wrong. Is this about not helping these workers because they are tough and they joined a union? Is that it? What is this? It doesn't smell right. You can't support giving money to lure foreign manufacturers into your State, foreign auto companies into your State, and then suddenly turn on folks who are trying to save the domestic automobile industry.

It is not that I am against what those States did. I am just talking about being consistent. If you didn't oppose giving money to foreign car companies, why do you oppose giving a bridge loan to our own domestic manufacturing base at a time of great economic peril?

We will live to fight another day on this, that is for sure. As I said, if this were a different time, if this were a different place, if the economy were thriving and one of those companies had problems due to their own ineptitude, I would not be here now. This is a worldwide recession. Other countries are moving forward. I hope the American people understand this.

If we are to add 2 to 3 million more unemployed people onto the list, we are going to be in a downward spiral. It is going to be very hard for us to recover in the near term.

Again, the big three have made a lot of mistakes. I met with them in the 1980s. I will never forget it. I was over in the House and I was on a committee that was dealing with fuel economy. I said: Why don't you make more of these fuel-efficient cars? At that time, I said: My kids are in college. I see their friends are all buying these smaller cars. They want to buy American, but they cannot. They cannot afford the gas. That was after we had this crisis in the 1970s.

They said: You don't know what you are talking about. Those small cars, you don't make enough money on

them, they are no good. People want big cars. That is good. We make more money. They said to me: We are giving up those small cars to other companies, to foreign companies.

I believed that was wrong. I said you need to have diversity.

They decided to go their way.

I don't have a great deal of sympathy for the management over there responsible for this. They didn't take the lead in research and development of advanced technology vehicles. They put too many of their resources into gas guzzlers.

Mr. President, I ask unanimous consent for another 10 minutes.

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

Mrs. BOXER. They ignored signs that their future success would depend on an ability to adapt to a changing business climate with innovation and new technologies. When I learned of the financial problems facing GM, Ford, and Chrysler, I viewed a possible rescue plan as an opportunity to help Detroit embrace new technologies that could lead them toward a strong and prosperous future. I still think, because of the White House's objection, the bill before us is making a big mistake because I wanted to make sure we could say in this bridge loan the funds could not be used to pursue litigation related to the California waiver.

Well, the administration will not go for that. We know where they stand on energy independence, we know where they stand on fighting global warming, on clean cars. They stand nowhere—or I should say they stand somewhere in a bad place. If the big three would embrace the California waiver, understanding that 19 other States are with us, and produce cars to meet the goals, the very clean-air goals we have there, I think we would be a leader in the world. I see that in our future. I really do.

I know in your State, Mr. President, we are seeing a whole new range of manufacturing dealing with solar panels. It is very exciting. This is the future. This is the future. Our big three should be leading the way. I hope they got the message in this last runup of gas prices. I hope they get the message that there is global warming and that we are going to have to deal with it if our planet is to survive.

I am confident that President-elect Obama is going to approve the waiver. I am confident that when he does that, it is going to be a big help to the big three because they will really buckle down.

By the way, we are going to reimburse this technology fund, they are going to move ahead and they are going to meet the requirements with the cleanest cars possible, and it will be a new day. Now, if all three of them do it and two of them survive in the future, that may be the way. We do not know. But what we do know is that today, this day, December 11, so close to Christmas, we do know that to walk away without helping this important industry could lead—could lead—to a far deeper recession and even toward a depression.

With this auto retooling program from which these funds are being borrowed, this will be replenished. Speaker PELOSI has indicated to me personally that they will be replenished. I call on my colleagues in the Senate to support quick replenishment of the program, which is essential to the effort of repositioning the U.S. at the forefront of new transportation and advanced battery technologies.

You know, we have startup companies in my State—very exciting. One of them is called Tesla Motors and the other is Fisker Automotive. That is two of them. They are leading the effort to develop advanced technology batteries, zero-emission cars, and high-performance plug-in hybrid electric vehicles. I have driven some of these cars. They are extraordinary. These companies and others, including the big three, are processing section 136 loan applications to retool manufacturing plants and speed up the development of technology that will put the United States right out in front, leading the way to clean cars and clean technology.

I wish to point out that no bill is perfect. I could write a bill that would be far better for me. Every Senator could. But there is significant taxpayer oversight in this bill, as well as benchmarks that the big three must meet in order to continue to receive Government assistance.

By January 1, the car czar will develop benchmarks to determine how to assess each company's progress in turning its plans submitted to Congress into long-term restructuring plans. The benchmarks will focus on how the big three will restructure their businesses for long-term viability, increased fuel efficiency, advanced technology, managing debt, capitalization, and future cost requirements.

So to my colleagues on the other side of the aisle who say: Let them go bankrupt, it is better, they will restructure, we are going to make sure they restructure without declaring bankruptcy and without unloading all of the cost of that bankruptcy onto the backs of taxpayers. If any of the big three fail to submit long-term restructuring plans by March 31, 2009, the car czar has the authority to call the loan or cancel the loan commitment within 30 days, requiring the loan to be paid back at an accelerated rate.

Taxpayers will recover the cost of these loans over 7 years at a rate of 5 percent for the first 5 and 9 percent thereafter. The car czar will have access to all financial records of the big three and will have the ability to prohibit asset sales or possible investments over $100 million, which will protect U.S. jobs being outsourced. The Government will have senior debt status for repayment of the loans, meaning we are in the front of the line to recover loan payments regardless of the companies' success. Stock warrants will ensure the taxpayers benefit from any future growth these companies may experience. The bill prohibits golden parachutes, puts limits on executive compensation and bonus compensation to top employees, and it requires the companies to divest from any private jet investments. The payment of dividends to shareholders will be prohibited during the loan period. In other words, there is every incentive for these companies to turn their companies around. They want to pay dividends to shareholders, they want to get bonuses, they want to get back to business as usual. But we say: Before you do, you have to pay us back. They have a lot of reasons to make this turnaround.

The loan program will be subject to strict auditing by the Comptroller General and the GAO. The car czar will be tasked with facilitating agreements between unions, retirees, debtholders, creditors, suppliers, auto dealers, and shareholders to reduce costs and ensure long-term viability.

Again, I say to my colleagues who are saying let them go bankrupt, take a look at this bill. You are saying let them go bankrupt because they will have to restructure. We say restructure without the bankruptcy because if, in fact, there is a bankruptcy declared, 80 percent of the American people say they will not buy a car from a company that has gone bankrupt. I understood that. So this avoids the bankruptcy and allows them to restructure. If we fail to do this, we are playing Russian roulette with this recession. In times of crisis, you have to see opportunities.

I believe, as a major critic of the car companies since the 1980s when I was here in the House of Representatives, they have finally gotten the message. It has taken them too long. They have been too arrogant. They have not seen the world changing. They have not noticed global warming. They have been blinded to so many things that were happening around them. They were hostile to California and the 19 other States that want to clean up our environment and get better fuel mileage, have clean cars. Instead of embracing those States and working with those States—by the way, those 19 States and California represent a majority of the American people. A majority of the American people want clean cars.

Now, it may have taken this horrific turn of events to get the message through, but clearly the message must be getting through. Jeffrey Sachs wrote recently in the Washington Post:

> American-made fuel-cell cars may be a large-scale reality within a decade. Success would dramatically improve energy and national security and U.S. global competitiveness.

Now, this is the opportunity. But guess what. If we do not act, if we do not act and this recession keeps deepening, we will not have this chance. We will be the only industrialized democracy without a domestic auto company

and without that manufacturing base. So we have to do what is necessary to push Detroit toward a stronger, more efficient future. It may be that at some point in the future, that industry will have a different look to it. Maybe it will have a different look to it. We do not know that. But what we do know now is that what has hit Detroit is far more than making the wrong choices about what cars they produce. I think they made those wrong choices, but it is far bigger than that because every company in America and outside of America that is making cars is suffering today because of the terrible recession we are in, because of a lack of consumer confidence, because of a loss of equity in the stock market, because of home foreclosures, because of all of these things.

So I say you never know what could happen in the future. I am not able to predict it because I cannot. But I know what I have to do now. I have to think about those three things: jobs, jobs, and jobs. When I think about that, and I recognize that just today we had more filings for unemployment insurance than we have had in 26 years, I say for us to walk away from this without this scaled-down bridge loan would be playing Russian roulette with this recession. I love my country too much to do that. With all of the problems I have with Detroit, I will support helping them in this fashion.

EXTENSION OF MORNING BUSINESS

Mrs. BOXER. Madam President, I ask unanimous consent that the period for morning business be extended until 2 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. BARRASSO. Madam President, I also ask unanimous consent that Senator NELSON of Florida be allowed to speak after me.

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

Mr. BARRASSO. Thank you very much, Madam President.

CLEANUP OF NUCLEAR MISSILE SITE IN CHEYENNE, WYOMING

Mr. BARRASSO. Madam President, I stand here today holding a 500-page report, a report that was sent to my office yesterday by the Army Corps of Engineers. I will not read the whole report, I am happy to say, but I want to call attention to the Senate and to the country, as well as to the people of Wyoming, what is contained within this report.

This report, at a cost of who knows how many taxpayer dollars, says something I have known and the people of Wyoming have known to be true. It says the Army Corps of Engineers is responsible for the contamination of the water wells of the city of Cheyenne. Now, let me clarify. The report does not actually say the words ''we are responsible.'' Washington could never admit its faults so directly. No. Instead, the report states that other potential sources of contamination, other potential sources of this trichloroethylene—the contaminant, the chemical that is in our city's wells—it says that other potential sources ''may be limited.'' I guess that is Washington's way of saying: It was us.

The Wyoming Department of Environmental Quality and the city of Cheyenne found evidence of trichloroethylene in the water supply in 1998—10 years ago. The culprit is a dormant Cold War-era nuclear missile area. It is a missile site and has been there for a long time. The Army Corps of Engineers admits that over 1,800 gallons of this contaminant, TCE, was dumped at the Atlas 4 nuclear missile site each year—each year—of the operation of the missile site, beginning in the mid-1960s.

Well, the discharge of TCE the Army Corps admits to is a mere 1 mile—1 mile—from the water wells of the city of Cheyenne. The Wyoming Department of Environmental Quality has claimed there is one giant plume of TCE emanating from the former nuclear missile site, working its way into and then contaminating the city's water wells. The missile site is currently being cleaned up under the Superfund laws by the Army Corps of Engineers. Unfortunately, the Army Corps only admits culpability for TCE contamination directly emanating from the nuclear missile site. They allege that there is actually a gap between the plume they admit to at the nuclear missile site and the one around the city's water wells—1 mile apart.

Now, you might think it odd that the Department of Defense, given the volume of this chemical that has been dumped year after year in rural Wyoming, would not admit that it was the responsible party for contaminating the city's wells. That would just make sense. They would say: Yes, we dumped it here. It is right here, a mile away in the wells. It is our fault. No. It would just make sense to us that they would admit it. But, in fact, the Army Corps over the last few years has looked to blame almost anyone else, has looked to blame others than to say they are responsible for contaminating the city's wells. Well, such claims have included that there might have been a train derailment and the train might have been carrying TCE into the area. They said it might have been from a nearby oil rig, it might have been from a local shooting range. The Army Corps said: Anybody but us.

I became involved in this issue after I felt the city of Cheyenne and the Wyoming Department of Environmental Quality were being ignored by Washington. As ranking member of the Superfund and Environmental Health Subcommittee, I pushed for testing of the ground in that 1-mile area between the nuclear missile site and the water wells of the city of Cheyenne. The Army Corps finally agreed to do the testing and said it would also look into the historical use of this chemical in the Cheyenne area to make sure there was not another responsible party for the contamination.

The final results—all 500 pages—were finally released this week. To no one's surprise who lives in Wyoming, to no one's surprise who is familiar with this issue, to no one's surprise but the Army Corps of Engineers, the contaminating chemical, TCE, was found in the ground between the nuclear missile site and the city's water wells, right where we said it would be. The report also revealed they found no other public records of TCE use in the Cheyenne area for any other reason. It just makes sense to us, and the cause is clear. Given these findings, it is time for the Army Corps to provide the funding the city needs to manage and to complete the current cleanup efforts.

Now, let me be clear. The city of Cheyenne's water is safe. Untold thousands of taxpayer dollars have gone to keep TCE out of the water supply. The city of Cheyenne and the State of Wyoming have implemented the effective procedures to protect the folks in Cheyenne. Those efforts have been completely successful. But the Army Corps of Engineers and the U.S. Government have the responsibility to fund the cleanup. They have responsibility to fix the problem, and this report says it is so. It is time to do so.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

TRIBUTE TO SENATORS

JOHN WARNER

Mr. NELSON of Florida. Madam President, I wish to take this opportunity to pay tribute to a true patriot and a dear friend, Senator JOHN WARNER of Virginia.

It has been an extraordinary experience for me to serve with Senator WARNER on the Armed Services Committee and the Intelligence Committee.

In the capacity of his service on the Armed Services Committee, which has been upwards of three decades, serving as its chairman, the insight and guidance he has provided has been invaluable. Over and over, you will hear the

members of that committee speak as I, as if with one voice, how we appreciate his public service. He has great knowledge. He has great wisdom. It is tempered with a wonderful personality that is most studious and deliberative. Few have done as much to champion the cause of our men and women in the Armed Forces of the United States as JOHN WARNER.

This Senator admires him for his sense of fairness, for his mutual respect of all the Members of the Senate. We know there has to be civility in the Senate for it to function. There has to be mutual respect. There has to be respect for the truth. There has to be respect for the dignity of individuals and those Senators' families. All of that is certainly apropos of the senior Senator from Virginia. Over and over, I have been in situations with him that could have been adversarial. Yet his calm judgment and reason have brought people together. Of course, that is the admonition of the Good Book: ''Come let us reason together.''

Over and over, as I have sought his counsel on matters of some of the Nation's highest secrets, JOHN WARNER has provided the leadership and the clarity, as we have made those decisions, sometimes making those decisions together.

So it is with a great reluctance on my part that I see our colleague, Senator WARNER, retire after a very distinguished and long career. It has been a privilege to serve with JOHN. I will miss him as a colleague. I will miss his leadership, his fairness, and his great capacity as a gentleman of the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. Madam President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

AUTOMOBILE INDUSTRY CRISIS

Mr. WHITEHOUSE. Madam President, I rise today to address what I feel is an unfortunate omission from our economic rescue strategy to date. This week, we are considering another bailout which would give $15 billion in so-called bridge loans to America's struggling automakers.

Now, when we debated a bailout program to protect our Nation's financial system back in September, we created legislative branch roles and executive branch roles. We ultimately passed legislation that empowered the Department of the Treasury to invest up to $700 billion. Debate was rushed. The Treasury Secretary came to us on a Friday in September and told leaders of both parties in both Houses that our economy would collapse if we did not take immediate action. With the threat of immediate financial calamity and the apparent good faith of Secretary Paulson, Congress moved quickly to pass the best bill we could. Senator CHRIS DODD of Connecticut and my colleague from Rhode Island, Senator JACK REED, worked heroically, almost around the clock, to negotiate for taxpayer protections and several levels of oversight. In the end, we created a program of congressional and executive roles but no judicial role. We ignored the role that courts can play here or, more correctly, that executive agencies can play when supported by judicial or even quasi-judicial due process. We are about to ignore that role again in the auto bailout.

Why is this point important? This is important because under our American system of government, there are important powers of government that can only be exercised after due process opportunity for a hearing. The famous Supreme Court case of Fuentes v. Shevin is on point. I quote:

> The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision-making when it acts to deprive a person of his possessions.

That is citation 407 U.S. 67 at 82.

In other words, some means of restructuring require due process if they involve adjusting people's financial rights and claims. When we fail to provide that process, we unilaterally disarm government's response, taking away its ability to restructure using those means.

The price of this repeated omission has been high. Going back before we even got into this current mess, when there was only a subprime mortgage problem, Senator DURBIN of Illinois proposed a bill that would have empowered bankruptcy judges to modify the terms of a mortgage on a person's primary residence. One needed a due process hearing such as that in order to adjust the rights within that mortgage of the banks and the myriad investors who bought strips of that mortgage when it was carved up and sold to the four winds. Our Republican colleagues stymied this provision which we now see could have kept tens of thousands of families in their homes. Because the clarity and finality of a court decision on a troubled mortgage was not available, there was little alternative to foreclosure, and troubled mortgages, by the tens of thousands, cascaded into foreclosure—numbers never before seen in our history. Our fault. Bad design. And every day we don't get it right, every day we don't pass Senator DURBIN's bill, that foreclosure problem worsens.

Similarly, as part of the $700 billion Wall Street bailout, we could have addressed lavish and indefensible executive compensation by providing for some judicial power to restructure these packages. Because we didn't, these grotesque liabilities remain on the books of the bailed out entities as obligations to their disgraced management. According to an analysis by the Wall Street Journal, the executive deferred compensation obligations of bailed out Wall Street firms amount to more than $40 billion. Banks participating in the bailout program carried these obligations on their books, and the cash from our bailout is being used to pay them—or will be used to pay them. Taxpayer dollars will end up in the pockets of the scoundrels who tanked those firms. I contend we have to find ways in which the court system, due process, can be brought to bear on this problem. But again, the inaction on that so far is our fault. Bad design. Unilateral disarmament in the face of the Wall Street meltdown.

Now we have the auto bailout plan with its provision for a ''car czar,'' but once again, lacks a role for those due process powers of government. Once we are committed to this deal—once we are in—the only tool we will have at that negotiating table is Uncle Sam's checkbook—that, and the somewhat improbable threat to walk away and tank the auto companies after having put $15 billion into them. So now we will have to negotiate about the companies' continuing lavish executive and board compensation packages and other obligations impeding a fair and rational recovery. As for looking backwards at preexisting obligations, as we say in Rhode Island, forget about it. That requires due process. We have created no process to even invoke government's power to review those. So the effect of all of this is to encourage special interests to play the holdout in the auto negotiations and dare us to tank the companies. It is going to be a high stakes game of chicken and, no matter who wins, the taxpayers lose.

We created this ''hold out'' problem by not providing a judicial role in the restructuring. We could, for example, give the car czar the powers of a judicially appointed conservator or receiver—those are roles I have held—and the power to go to court for an order approving his plan or her plan over the objections of any holdouts. If we did that, it would change the bargaining position of the holdouts. This judicial due process would allow the strong powers of government that require due process to be brought to bear on this mess. We do this in a lot of different contexts.

Bankruptcy courts oversee restructuring all the time and so do other quasi-judicial bodies. For example, the FDIC has the power under current law to place a troubled bank into receivership and wind it down as if in chapter 7, or put it under conservatorship to restructure it as if in chapter 11. The bankruptcy courts and the FDIC possess the tools necessary to cut through whatever Gordian knots may snarl restructuring plans absent that power.

The judicial imprimatur will also increase public confidence in the fairness and the propriety of these plans. There is flexibility about how we do this. We don't have to have it be the FDIC. We don't have to have it be a bankruptcy court to recognize the due process powers of government.

Fuentes v. Shevin again, and I quote:

> Due process tolerates variances in the form of a hearing ''appropriate to the nature of the case,'' and ''depending upon the importance of the interests involved and the nature of the subsequent proceedings, if any.''

I hope my colleagues will recognize the importance of authorizing judicially supervised powers in these bailout plans. I pledge to work hard with anyone who wants to achieve this goal. It is vital, I contend, to recognize that directed judicial oversight expands government's powers and authorities to do the things the public and the circumstances demand. It gives us a means to unsnarl the foreclosure mess on Main Street, to restructure obscene executive compensation on Wall Street, and to force good-faith negotiations in Detroit.

We cannot ignore the judicial power in restructuring companies and industries. We must not let that sword sleep in our hands. Times are bleak in Detroit, as they are around the country. The automobile industry stands on the brink of collapse, and the jobs of thousands—some say millions—of workers hang in the balance.

Michigan shares the sad distinction with my home State of Rhode Island in having the Nation's highest unemployment rate, 9.3 percent, in October. Families are struggling in Rhode Island and across the country. That is the background against which we must consider whether to bail out yet another industry. In making such a weighty decision, I implore my colleagues, we must not consider just whether but how we go about doing this.

I contend that we should empower our Government to take steps that we have, to date, foreclosed—steps that exercise the power of Government that can be only exercised after due process of law. I hope we consider that.

Madam President, I ask unanimous consent that the Wall Street Journal article to which I referred be printed in the RECORD.

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

[The Wall Street Journal, October 31, 2008]

BANKS OWE BILLIONS TO EXECUTIVES

(By Ellen E. Schultz)

Financial giants getting injections of federal cash owed their executives more than $40 billion for past years' pay and pensions as of the end of 2007, a Wall Street Journal analysis shows.

The government is seeking to rein in executive pay at banks getting federal money, and a leading congressman and a state official have demanded that some of them make clear how much they intend to pay in bonuses this year.

But overlooked in these efforts is the total size of debts that financial firms receiving taxpayer assistance previously incurred to their executives, which at some firms exceed what they owe in pensions to their entire work forces.

The sums are mostly for special executive pensions and deferred compensation, including bonuses, for prior years. Because the liabilities include stock, they are subject to market fluctuation. Given the stock-market decline of this year, some may have fallen substantially.

Some examples: $11.8 billion at Goldman Sachs Group Inc., $8.5 billion at J.P. Morgan Chase & Co., and $10 billion to $12 billion at Morgan Stanley.

Few firms report the size of these debts to their executives. (Goldman is an exception.) In most cases, the Journal calculated them by extrapolating from figures that the firms do have to disclose.

Most firms haven't set aside cash or stock for these IOUs. They are a drag on current earnings and when the executives depart, employers have to pay them out of corporate coffers.

The practice of incurring corporate IOUs for executives' pensions and past pay is perfectly legal and is common in big business, not limited to financial firms. But liabilities grew especially high in the financial industry, with its tradition of lavish pay.

Deferring compensation appeals both to employers, which save cash in the near term, and to executives, who delay taxes and see their deferred-pay accounts grow, sometimes aided by matching contributions. In some cases, firms give top executives high guaranteed returns on these accounts.

The liabilities are an essentially hidden obligation. Even when the debts to their executives total in the billions, most companies lump them into ''other liabilities''; only a few then identify amounts attributable to deferred pay.

The Journal was able to approximate companies' IOUs, in some cases, by looking at an amount they report as deferred tax assets for ''deferred compensation'' or ''employee benefits and compensation.'' This figure shows how much a company expects to reap in tax benefits when it ultimately pays the executives what it owes them.

J.P. Morgan, for instance, reported a $3.4 billion deferred tax asset for employee benefits in 2007. Assuming a 40% combined federal and state tax rate—and backing out obligations for retiree health and other items—implies the bank owed about $8.2 billion to its own executives. A person familiar with the matter confirmed the estimate.

Applying the same technique to Citigroup Inc. yields roughly a $5 billion IOU, primarily for restricted stock of executives and eligible employees. Someone familiar with the matter confirmed the estimate.

The Treasury is infusing $25 billion apiece into J.P. Morgan and Citigroup as it seeks to get credit flowing. In return, the federal government is getting preferred stock in the banks and warrants to buy common shares. The Treasury is injecting $125 billion into nine big banks and making a like amount available for other banks that apply.

It's imposing some restrictions on how they pay top executives in the future, such as curtailing new ''golden parachutes'' and barring a tax deduction for any one person's pay above $500,000. But the rules won't affect what the banks already owe their executives or make these opaque debts more transparent.

Asked about the Journal's calculation, the Treasury said, ''Every bank that accepts money through the Capital Purchase Program must first agree to the compensation restrictions passed by Congress just last month—and every bank that is receiving money has done so.''

Bear Stearns Cos., the first financial firm the U.S. backstopped, owed its executives $1.7 billion for accrued employee compensation and benefits at the start of the year, according to regulatory filings. When Bear Stearns ran into trouble after investing heavily in risky mortgage-backed securities, the government stepped in, arranging a sale of the firm and taking responsibility for up to $29 billion of its losses.

The buyer, J.P. Morgan, says it will honor the debt to Bear Stearns executives, which it said is shrunken because much of it was in stock that sank in value.

J.P. Morgan will also honor deferred-pay accounts at another institution it took over, Washington Mutual Inc. It couldn't be determined how big this IOU is. J.P. Morgan's move will leave the WaMu executives better off than holders of that ailing thrift's debt and preferred stock, who are expected to see little recovery. J.P. Morgan's share of the federal capital injection is $25 billion.

Obligations for executive pay are large for a number of reasons. Even as companies have complained about the cost of retiree benefits, they have been awarding larger pay and pensions to executives. At Goldman, for example, the $11.8 billion obligation primarily for deferred executive compensation dwarfed the liability for its broad-based pension plan for all employees. That was just $399 million, and fully funded with set-aside assets.

The deferred-compensation programs for executives are like 401(k) plans on steroids. They create hypothetical ''accounts'' into which executives can defer salaries, bonuses and restricted stock awards. For top officers, employers often enhance the deferred pay with matching contributions, and even assign an interest rate at which the hypothetical account grows.

Often, it is a generous rate. At Freddie Mac, executives earned 9.25% on their deferred-pay accounts in 2007, regulatory filings show—a better deal than regular employees of the mortgage buyer could get in a 401(k). Since all this money is tax-deferred, the Treasury, and by extension the U.S. taxpayer, subsidizes the accounts.

In addition, because assets are rarely set aside for executive IOUs, they have a greater impact on firms' earnings than rank-and-file pension plans, which by law must be funded.

Bank of America Corp.'s $1.3 billion liability for supplemental executive pensions reduced earnings by $104 million in 2007, filings show. By contrast, the bank's regular pension plan is overfunded, and the surplus helped the plan contribute $32 million to earnings last year.

While disclosing its liability for executive pensions, the bank doesn't disclose its IOU executives' deferred compensation, and it couldn't be calculated. The bank's share of the federal capital injection is $25 billion.

Bank of America has agreed to acquire Merrill Lynch & Co. Merrill is a rare example of a firm that has set aside assets for its deferred-pay obligation: $2.2 billion, matching the liability. Morgan Stanley also says its liability for executives' deferred pay is largely funded.

To be sure, deferred-compensation accounts can shrink. Those of lower-level executives usually track a mutual fund, and decline if it does. Often the accounts include restricted shares, which also may lose value, especially this year. To the extent financial-firm executives were being paid in restricted stock, many have lost huge amounts of wealth in this year's stock-market plunge.

The value of Morgan Stanley Chief Executive John Mack's deferred-compensation account declined by $1.3 million in fiscal 2007, to $19.9 million; much of it was in company shares. Mr. Mack didn't accept a bonus in 2007.

Executives can even lose their deferred pay altogether if their employer ends up in bankruptcy court. When Lehman Brothers Holdings Inc. filed for bankruptcy last month, most executives became unsecured creditors. The government didn't come to Lehman's aid.

In assessing liabilities, the Journal examined federal year-end 2007 filings by the first nine banks to get capital injections, plus six other banks and financial firms embroiled in the financial crisis. In many cases, the firms didn't report enough data to estimate their obligations to executives. As for identifying amounts due individual executives, company filings provided a look at only the top few, and not a full picture of what they were owed.

Just as banks aren't the only financial firms getting federal aid amid the crisis, they aren't the only ones facing scrutiny of their compensation programs.

Struggling insurer American International Group Inc. agreed to suspend payment of deferred pay for some former top executives pending a review by New York state Attorney General Andrew Cuomo. Mr. Cuomo is also demanding to know this year's bonus plans for the first nine banks getting federal cash, as is House Oversight Committee Chairman Henry Waxman.

Among the payouts AIG agreed not to make are disbursements from a $600 million bonus pool for executives of a unit that ran up huge losses with complex financial products. AIG also is suspending $19 million of deferred compensation for Martin Sullivan, whom AIG ousted as chief executive in June. His successor as CEO, Robert Willumstad, who left when the U.S. stepped in to rescue AIG in September, has said he's forgoing $22 million in severance because he wasn't there long enough to execute his strategy for AIG.

However, the giant insurer—whose total liability for its executives' deferred pay couldn't be calculated—says most of the managers will receive the compensation. ''Of course, we'll be looking at all these to make sure they're consistent with the requirement of the program,'' said spokesman Nicholas Ashooh.

AIG isn't eligible for the government's capital-injection plan, since it's not a bank, but it's getting plenty of U.S. aid of another sort. The Treasury has made $123 billion of credit available, a little more than two-thirds of which MG has borrowed so far.

Fannie Mae and Freddie Mac also don't get in on the capital-injection plan for banks. But under a federal ''conservatorship,'' the Treasury agreed to provide each with up to $100 billion of capital if needed. In return, the government got preferred shares in the firms and the right to acquire nearly 80% of them.

Their regulator, the Federal Housing Finance Agency, says it will bar golden-parachute severance payouts to the mortgage buyers' ousted chief executives. The executives remain eligible for their pensions.

Fannie Mae had a liability of roughly $500 million for executive pensions and deferred compensation at the end of 2007, judging by the size of its deferred tax assets. A spokesman for the firm wouldn't discuss the estimate or whether the executives would get the assets.

At Freddie Mac, most will. ''Deferred compensation belongs to the officers who earned it,'' said Shawn Flaherty, a spokeswoman.

Indeed, in September Freddie Mac made its deferred-compensation plan more flexible, allowing executives to receive their money earlier than initially spelled out. ''Officers were nervous about market changes,'' said Ms. Flaherty. ''We wanted a retention tool for top talent.''

Mr. WHITEHOUSE. I thank the Chair, yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Madam President, I ask unanimous consent that the Presiding Officer, the Senator from Missouri, be recognized for up to 5 minutes, and that I be recognized for 30 minutes in morning business.

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

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MCCASKILL. Mr. President, I know we have an important piece of legislation that we are going to vote on today. I desperately want to support that legislation. I wish to ask first and most importantly if anyone has the information as to whether the CEOs of Wells Fargo or Bank of America or Citigroup have taken private jets in the last month. Has anyone asked the CEOs of Citigroup, Wells Fargo—all of these financial companies—to take a cut in compensation? Has anyone asked about their workers and how much money they make and whether they are overpaid and whether they are competitive with the salaries of community bankers across the country?

Every one of the institutions I named has gotten $15 billion or more of taxpayer money. Think about that for a minute. Citigroup has gotten $50 billion. Have we checked on their private jets? Have we checked on their CEO compensation? Have we checked on their work rules and whether their workers are given enough flexibility?

It is unbelievable to me that we are setting this double standard. The thousands of jobs and families who build great American cars do not deserve this incredible hypocrisy in terms of the different treatment they are getting. What is good for the goose is good for the gander.

I say let's call in those CEOs of those big companies that have gotten more than $15 billion of our money and ask them when they are going to take a dollar in pay, ask them if they got here on a corporate jet, ask them if their workers have cut their pay to $14 an hour, ask them if they have talked about cutting their pension costs and their health care costs. Until we do that, we ought to be quiet about the American autoworkers, and we ought to be quiet about these companies that have reduced fixed costs, that have agreed to sell corporate jets, that have agreed to cut executive compensation.

I want to support this bill on behalf of manufacturing in the United States of America, on behalf of wonderful, hard-working families in Missouri. However, there is one problem that has arisen, and that is, unfortunately, in this bill right now, as written, is a provision to increase the pay of Federal judges. Wrong time, wrong place.

We have unemployment numbers today that show we have the highest unemployment in this country we have had in decades. We have families all over this Nation who are scared today, who are not buying Christmas presents. Federal judges get lifetime appointments and they never take a dime's cut in pay. They die with the same salary they have today. My phone is ringing off the hook from people who want to be Federal judges. I am having to have staff work overtime to handle all the phone calls I am getting from people who think there may be a Federal judgeship opening in the eastern district of Missouri and how badly accomplished, wonderful, smart lawyers want that Federal appointment.

We are not hurting for qualified applicants for the Federal judiciary. Is it fair that they have not gotten a cost-of-living increase like every other Federal employee? Probably not. But you know what is a lot more unfair is to give somebody with a lifetime appointment, great health care, no cut in pay when they actually retire, what is unfair is to give them a pay raise on this day in this bill at this time. It is not the right time. And if it is in the bill, I regrettably will have to vote against this legislation because I feel so strongly that it sends the wrong message to the United States of America at this scary moment in our economic history.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. MCCASKALL). Without objection, it is so ordered.

ORDER FOR RECESS

Mr. LEVIN. Madam President, I ask unanimous consent that at the conclusion of my remarks, the Senate stand in recess until 3 p.m.

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

DOMESTIC AUTOMOBILE INDUSTRY

Mr. LEVIN. Madam President, the bill that has been filed by the chairman

of the Banking Committee would do for the U.S. domestic auto industry what governments around the world are doing: providing emergency assistance to their auto industries because their survival is jeopardized by a worldwide recession which has resulted in plunging auto sales.

That global recession is not the making of the auto industries around the world, including our own domestic industry. Past mistakes of the big three are not the cause of the worldwide recession and resulting credit freeze. People who want to make large purchases, such as automobiles, are unable to get credit, and 90 percent of the people who buy automobiles buy on credit. Many people simply are afraid to make large-scale financial commitments in these scary economic times. So the U.S. domestic auto industry is not alone in needing loans to make it through the global economic calamity we are in. Look at the rest of the auto-producing world. Here are some headlines in the news recently:

''Facing a Slowdown, China's Auto Industry Presses for a Bailout From Beijing.''

Brazil. ''In Brazil, Whiplash on Assembly Lines.'' ''The Government stepped in with a $3.5 billion aid package for the auto industry by funding banks to boost the amount of credit available for car loans.''

''European Carmakers Get $50 Billion in Aid.''

''European governments poised to help their automakers.''

''Automakers in other nations get more government help. Requests for aid made worldwide''—another headline.

These are all headlines in papers across the country.

Reuters, ''Spain to support car industry.''

''France's stimulus plan includes carmakers.''

''Portugal rolls out loan.''

''Auto industry faces massive job losses without aid,'' according to the chairman of one of the largest automobile industries—not one of the big three.

Now, why are nations around the world stepping in to support their auto industries? It is because of the drastic decline in sales across the industries around the world—not just domestic, not just the big three—leaving no alternative to every other auto-producing country and its government but to support its industry. Hyundai sales are down 40 percent; Toyota sales are down 34 percent; Honda, down 32 percent; Nissan, down 42 percent; Mercedes, down 38 percent. These are not the big three. These are automobile makers around the country that are in the same situation as the big three. But the difference, so far, is that other governments are stepping in. We have not yet stepped in to support our industry.

In arguing against these loans for the big three, some continue to describe the domestic companies of the 1970s and 1980s when fuel efficiency was not high on the list of the big three as big three goals or achievements. Some would have us ignore dramatic gains in quality and vastly greater numbers of fuel-efficient vehicles now being offered by the big three. In the area of quality, big three autos are equal to or better than their foreign competitors. For example, the J.D. Power Initial Quality Study scores the overall quality of Buick, Cadillac, Chevrolet, Ford, Mercury, Pontiac, and Lincoln—these are objective, outside studies on quality for those American brands, Buick, Cadillac, Chevrolet, Ford, Mercury, Pontiac, and Lincoln—as high or higher than Acura, Audi, BMW, Honda, Nissan, VW, and Volvo. J.D. Power rates the Chevrolet Malibu as the highest quality midsize sedan on the market, and both the Malibu and the Ford Fusion score better than the Honda Accord or the Toyota Camry.

On the fuel efficiency side, here are some facts that hopefully colleagues will consider. Long before the credit crisis hit, GM laid the groundwork to offer 15 hybrids by 2012. Thanks to investments they have already made, GM already has 20 models that achieve 30 miles per gallon or better—twice the number of its nearest competitor. All the big three are working to ensure that at least 50 percent of their American production is capable of running on biofuels by 2012. Domestic automakers produce numerous cars that have equal or better fuel efficiency than their foreign competitors. And again, the most fuel efficient Chevy Malibu gets 33 miles per gallon on the highway, which is 2 miles better than the best Honda Accord. The most fuel efficient Ford Focus has the same highway fuel efficiency ratings as the most fuel efficient Toyota Corolla.

In the area of productivity, Chrysler tied Toyota as the most productive automaker in North America this year, according to the Harbor Report on Manufacturing, which measures the amount of work done per employee. Eight of the ten most productive vehicle assembly plants in North America belong to Chrysler, Ford, or General Motors.

Now, there are also some who want to ignore the reduction in benefits that have been taken already by UAW workers and retirees. In the collective bargaining agreements negotiated in 2005 and 2007, the UAW, along with GM, Ford, and Chrysler, achieved billions of dollars in cost savings and set the companies on the course to bring labor costs, including benefits, in line with their foreign competitors in the United States by 2012. Wages were cut and pension and health care benefits were greatly reduced as well.

The UAW is taking responsibility for managing its own retiree health care benefits beginning in 2010 by setting up its own voluntary employee beneficiary association, or VEBA. The VEBA plan will transfer responsibilities for health care benefits for existing employees from companies to an independent trust. This eliminates half of the companies' liabilities for retirees' health care, with billions of dollars of savings.

The memory of mistakes made decades ago lingers and remains the impression that many have of the big three despite all the facts I have just outlined. Beliefs are always hard to change. So the facts I have just shared about improved quality and more fuel efficient vehicles and alternative-energy vehicles being produced by the big three may not be readily accepted by people who have beliefs that are to the contrary. But one fact is indisputable and will hopefully influence some who are open to argument: Auto industries around the world are seeking the support of their governments through loans and other methods and are getting it. I went through that series of headlines, from Brazil to Europe, all the way to China. The Chinese automobile industry is asking for loans from the Chinese Government. No other auto-producing country that I know of in the world is failing to act to make sure its industry is alive when the deep global recession is over, and we shouldn't either.

There is also a national security aspect to the American auto industry, and I wish to spend some time on this because there was testimony that was prepared for delivery to the Banking Committee when they met on this subject by the Director of the U.S. Army Tank Automotive Research, Development and Engineering Center, called TARDEC. So this is the Army R&D and engineering center. It is located in Macomb County, MI. TARDEC develops, integrates, and sustains the right technology solutions for all of our manned and unmanned Department of Defense ground vehicle systems and combat support systems in order to improve force effectiveness and provide superior capabilities for the future forces of this country.

The Director of TARDEC is Grace Bochenek. Because of the security importance of what I am going to relate, I am going to read from her prepared testimony, and this is going to take some time. I am going to read from her prepared testimony, though it wasn't actually delivered. It ended up that they had too many witnesses, and so she wasn't invited, but this testimony is a compelling story of the continuing relationship between the big three, the domestic auto industry, and our U.S. Army vehicle program.

We all look back—some of us nostalgically—to what Detroit did during World War II. That is the past. There is a present which is critically important in terms of the security of this country. Some have pointed out the need to have a manufacturing base in order to quickly expand in the case of need, and that is a powerful argument—a national security argument for keeping our big three auto industry around the way other countries keep their auto industries around. Some other colleagues

have pointed out in some detail the relationship between the suppliers of the big three and the suppliers of vehicles for the Army and how much trouble those suppliers would be in—these are Army vehicle suppliers—if the big three did not survive, and that is another powerful national security argument. But I am going to focus on what Grace Bochenek focused on, the Director of TARDEC, which is the relationships, the synergies that exist between the big three now and the Army in terms of current products and current technologies which are inserted into our vehicles and future technologies which are being developed as we speak.

I am going to quote from her testimony, and this will all be quotes except where I insert my own words, which I will try to make clear. But this will be a long quote, for those who are listening to this testimony and, hopefully, reading it.

The synergies between TARDEC and the U.S. automotive industry and the collective challenges we face. TARDEC's connection to the automotive industry dates back to 1947, when the Tank Automotive Components Laboratories, now known as TARDEC, was established. The level of cooperation between the Army and the auto industry was strengthened by the Secretary of the Army's charter of the National Automotive Center, NAC, in 1992 to champion the development of dual-use automotive technologies and their application to military ground vehicles. Today, the NAC remains the connective piece and continues to engage through many different mechanisms to leverage the capabilities, skills, and facilities of the automotive industry.

Referring to the Department of Defense and the domestic automobile industry, she continued:

For the past 70 years, we have shared common research goals, leveraged investments in technology, mutually benefitted from those technical developments, and collectively owned the responsibility for our Nation's next generation of automotive engineers and scientists. Technologies may have changed, but the importance of working together to collectively drive innovation has not. The Army's specific challenges are as follows: First, significantly increasing fuel efficiency to reduce the logistics burden on our troops. In some cases, fuel is 70 percent of the bulk tonnage that we take to war. Second, substantially increasing electric power available on the battlefield and developing the next generation of electronic warfare tools. Third, increasing soldier protection through the development and application of advanced light-weight material solutions. Fourth, utilizing sensor technology throughout our vehicle platforms to collect prognostic data allowing for overall improved reliability and reduced sustainment costs. Fifth, engaging the enemy without putting soldiers in harm's way through the fielding of unmanned systems.

Another word for that is robotics.

Continuing now with Grace Bochenek's prepared testimony.

Often the only difference between military and commercial automotive technologies is a matter of scale both with regard to the market (quantity) and component durability (military specifications). The goals and the technologies leading to their accomplishment, however, remain very similar. Our motivations may differ, but our technological goals are shared ones. Both the Army and the automotive industry seek to achieve technical advances in the areas of power and energy, vehicle intelligence, robotics, safety, advanced lightweight materials and leading-edge manufacturing methods.

Then she goes into examples in each of those areas, where there is a working together, a cooperation, a synergy between the American automobile industry and the Army vehicle program. She continues:

In 1997, TARDEC began a commercially based tactical truck program focused on leveraging GM, Ford and Chrysler's commercial truck platforms to meet some of the military's light tactical vehicle requirements. Chrysler and GM provided hybrid electric vehicles that included start-stop operation and vehicle exportable power providing TARDEC with information critical to defining future requirements.

A Cooperative Research & Development Agreement (CRADA) between Ford and TARDEC launched the development of a thermal management software modeling tool. This further matured under multiple Small Business Innovation Research (SBIR) contracts utilizing tri-service investment. The dual use software produced has been fully commercialized and is now sold worldwide by one of the SBIR, recipients, resulting in a new Michigan business with revenues of about $10M per year. Ford's initial investment was absolutely critical in the development of this world class product the application of which has also become the Army, Navy, and Air Force standard. This is an example of how an Automotive OEM—TARDEC partnership was able to leverage resources to create jobs and develop useful technologies.

TARDEC continues to partner with automotive industry OEMs and suppliers on advanced powertrain technologies including fuel cell technologies, power and thermal management, and advanced automotive batteries all of which are necessary for the next generation of military systems. TARDEC leverages fuel cell developments primarily through the automotive supplier base with companies such as Ballard, Delphi, and United Technologies. TARDEC also has a longstanding relationship with General Motors in the demonstration and evaluation of light duty commercial fuel cell vehicles. This program has allowed TARDEC to assess multiple generations of fuel cell technologies.

Batteries are critical to implementing advanced automotive powertrains. As such, there is a growing body of collaborative work between TARDEC, the automotive OEMs, and their suppliers. The cornerstone of TARDEC's efforts in this area is the development of manufacturing technologies needed to mass-produce high power and energy density Lithium-Ion (Li-Ion) batteries—particularly critical for the Army's Future Combat Systems platforms. Additionally, there are many ongoing military battery technology development efforts that leverage emerging automotive battery technology providers such as Al23, AltairNano, Boston Power, GS Yuasa, Inanovation, EnerDel, EnerSys, Firefly, Kokam America, Quallion, and SAFT America. With the help of the Automotive OEMs and the Department of Energy, TARDEC is escalating efforts to define the boundaries for dual-use commercial and military applications of advanced battery technologies through the U.S. Advanced Battery Consortium. Additionally, General Motors is supporting TARDEC advanced battery requirements through direct, individual collaboration through a CRADA and an additional newly awarded contract.

TARDEC and the automotive OEMs have both identified advanced automotive batteries as a key area for collaboration going forward. In the support of expanding collaboration in advanced batteries, TARDEC has worked with the automotive OEMs and suppliers of battery technologies to assess the scope of effort around establishing a robust, diverse manufacturing base for advanced automotive batteries. This effort recently culminated in a two-day Battery Summit, which involved over 70 participants from industry and government. Discussions covered the technology, policy and manufacturing implications of having a domestic base for the manufacture of advanced batteries. TARDEC intends to continue to work with key stakeholders to identify near term opportunities in the area.

VEHICLE INTELLIGENCE

The Army faces high operating and support costs in its aging fleet of vehicles. Currently the Army reduces this heavy cost burden through periodic scheduled inspections and sustainment efforts. To further reduce this cost burden, the Army must move towards an intelligent vehicle architecture.

Both the Army and the automotive industry have vested interest in enhancing their platforms by providing predictive maintenance enhancements through prognostic capabilities. This requires equipping vehicles with computing devices, sensors, middleware, and wireless infrastructure. Through these enabling technologies, vehicle intelligence is made possible. This could ultimately enhance operational readiness and reduce lifecycle maintenance costs for ground vehicle platforms by reducing the heavy cost burden of periodic scheduled inspections and automating the supply chain to proactively provision for part replacements to optimize the maintenance repair process.

Vehicle intelligence is also an enabling technology for Condition Based Maintenance and (vehicle) Health Monitoring technologies. It is related to existing developments in the commercial automotive industry such as the installation of electronic control units (ECU) and electronic control modules (ECM), computing devices, and sensors. These devices facilitate diagnostic analysis at the vehicle subsystem level. This in-vehicle network provides the ability to diagnose such components as the powertrain, ABS, and critical safety systems. GM Diagnostics has taken this a step further by enabling cellular transmission of data off platform for off-board analysis and status updates through their OnStar system. The Army is working with commercial automotive partners to develop this technology for military use via secured communication pipelines.

Robotics—now she addresses robotics in her prepared testimony. I am going into this at some length because what has not been focused on enough in this debate is the security implication of the failure of the big three. There has been a lot of discussion about why it is essential that we not allow the big three to go under in terms of this economy. But what has not yet been focused on specifically, other than general statements about the connection, the current and future connection, is the essential synergy between the big three and the Army particularly but also the military in general.

People's minds tend to go back and say that was all World War II, that was all the ''arsenal of democracy,'' and yes, it was, and we are proud of it. But

it is also 2008, 2010, 2015, 2020. What kind of equipment our troops will have will depend upon whether we have the kind of connection between our military and our commercial worlds. In the area of vehicles, to disconnect that connection, to rip it apart, to allow the big three to go under, has a massive negative security impact on this country and on the well-being and survival of America's troops.

She goes on:

ROBOTICS, UNMANNED SYSTEMS

The U.S. Army has a long history of working with the automotive industry on the development of enabling technologies for manned and unmanned systems. Unmanned systems are key resources for our fighting men and women in the Global War on Terrorism.

Many of the key technologies currently used on ground robots have their start in cooperative programs between the U.S. Army and the Big 3 Automotive and their tier suppliers. The Army and the automotive companies have several aligned activities in unmanned systems. For example, the Army has several overriding objectives we are trying to achieve for the development and deployment of future unmanned vehicle systems. Primary among these goals are Safe Operations (Safe Ops) and Total Situational Awareness (SA) around the vehicles, necessary because a robot operates by sensing the environment around it at any given moment. Safe Ops and 360 degree SA are also critical for the safe operation of passenger cars on automated highways, which means our goals are aligned perfectly with the programs in the auto industry.

Recently, both GM and Ford participated in the series of DARPA Autonomous Vehicle Grand Challenges. The 1st Grand Challenge was held at the California Motor Speedway and it tested the ability of vehicles to move autonomously over structured roads. The 2nd Grand Challenge was a 170 mile cross-country road race in the deserts of Nevada. The 3rd and final challenge, called the DARPA Urban Challenge (DUC), was designed to push the state-of-the-art in autonomous navigation in urban environments, where each competitor had to obey the rules of the road and contend with other robots and driven cars. Many of these robust automotive sensing methodologies are being transitioned to Army programs for integration into both manned and unmanned systems.

In every one of these competitions both Ford and GM partnered with leading universities in the U.S. to put together winning teams that finished in the top 5 percent of race finishers (the GM-Carnegie-Mellon team won the DUC in 2007). The close coupling of robotic sensors, actuators and intelligence was enhanced by the collaboration of automotive engineers at the OEMs.

Then she goes on with her description of safety issues.

There are multiple overlapping safety goals between the commercial automotive industry and the military ground vehicle fleet. Just as injury risk mitigation and thorough modeling and simulation of technologies is important to the commercial automotive manufacturers; these precautions must be taken to reduce the impact to our Soldiers, Sailors, Airmen, and Marines.

Automotive industry OEMs and key suppliers have worked with TARDEC in the development of advanced modeling and simulation efforts to characterize occupant impact during rollover and side impact crashes. TARDEC recently developed ground-breaking full vehicle underbody blast models and methodologies to both accurately predict occupant injury during an energetic event such as a mine/IED blast, and to develop new countermeasures. This effort would not have been possible without heavy leveraging of automotive tools and methodologies from the automotive crashworthiness area. TARDEC's commercial partners have also been critical in advanced technology product development, testing and validation, design studies, and developmental tests. Finally TARDEC relies on the commercial partners for prototyping and large quantity manufacturing capabilities.

Advanced lightweight materials is the next subject that she took up in her prepared testimony.

One of TARDEC's mandates is to research, develop, engineer, and to leverage lean, agile, advanced manufacturing technologies used by the U.S. Auto Industry, Academia, and other segments of the U.S. Industrial Base. This is accomplished through partnerships and contracts with manufacturers, suppliers, and universities, taking advantage of manufacturing capabilities developed to service the high volume needs of the auto industry and adapt the technologies for manufacturing the low volume production of military components.

With the auto industry leading the charge, TARDEC is pursuing several advanced manufacturing processes such as friction stir welding, laser additive and subtractive manufacturing, flexible manufacturing cells using robotics, and water-based environmentally safe painting processes.

Then she addresses automotive expertise, knowledge, and education.

To maintain technological superiority now and in the future, we need top quality scientists and automotive engineers in our workforce. Alongside the automotive industry, we have always had a shared commitment and felt the collective responsibility to develop the next generation of engineers, and recognized the challenge to do so.

TARDEC has long recognized that a scientifically and technologically literate citizenry is our Nation's best hope for a diverse, talented, and productive workforce. To achieve this goal, we have partnered with the automotive industry and universities to develop curriculum that will benefit both TARDEC and the American automotive original equipment manufacturers.

We have also been able to address this challenge through our Automotive Research Center, which has created ways for us to partner with universities and allow students the opportunity to develop and work on relevant automotive engineering challenges.

Over the years, the automotive industry has made significant contributions to the Army through technology exchange processes available in the ARC [which is the Automotive Research Center]. And in recent years, an increased emphasis on research involving high mileage, low polluting vehicles, as well as the new high technology needs for large trucks, off-road vehicles and robots has provided invaluable data and resources for us towards the Army's long term transformation goals and objectives.

In 2007 and 2008, TARDEC supported 52 ARC research projects spanning Power, Mobility, Survivability, Modeling and Simulation technology areas. Ford, Chrysler and General Motors and at least 12 Tier-1 suppliers provided their resources and expertise towards 36 of the 52 research projects. The remaining projects had industry involvement from Tier-2 and Tier-3 suppliers such as large software companies, industry consultants and automotive small businesses.

The fact remains [and I will conclude with this] that the need for partnerships and the consistent leveraging of resources is critical for continued innovation, technological breakthroughs. American automotive original equipment manufacturers partnership with TARDEC in events such as [then she lists a whole lot of events] inspires young engineers to consider careers in math and science and helps to develop many needed automotive skill with applicability in DOD's ''real'' workforce environments.

Automotive industry support has been crucial in developing the educational infrastructure that has allowed the development of an automotive engineering talent base here in the United States. And that talent base will be central to future efforts to create a safer Nation and a robust manufacturing environment.

At this time, when we have to [these are her last words] at this time, when we have to break the dependency on foreign oil, provide energy security for the Nation, and increase soldier protection, it becomes even more critical, [even more critical] to leverage investments, exchange technical ideas to drive innovation, and provide the breakthroughs that are necessary to maintain the dominance of the American military.

I very much appreciate the time that I have taken to share with this body the statement of the head of the organization in the Army which is responsible for the technologies in current vehicles and future vehicles.

I have done this because there is kind of yet the unstated critical need for the survival of the big three. The stakes for our economy nationally are huge. The failure of the big three would send a tsunami through this already battered economy.

Millions of workers would lose their jobs. Dealers in every town and on every Main Street are already reeling from the economy's plunge. Automotive component suppliers, who are in fully half our States, are on the knife's edge already, waiting for us to act.

Men and women who work for steel mills and textile factories and glass factories and computer chip factories are waiting and hoping.

The financial industry would be at risk as well. A collapsed auto industry would lead to defaults on over $1 billion in corporate bonds, credit default swaps and other financial instruments tied to the auto industry and could send the stock market into another, deeper tailspin. Major additional damage to U.S. financial institution balance sheets would result, throwing our credit markets into even deeper turmoil.

Despite these facts, there are still some who say, ''let them go bankrupt, let them go under,'' even though 1 in 10 jobs in this country are tied to the auto industry. In addition to hoping that they will ask themselves why no other government is allowing that to happen to their auto industry, I would also hope they would listen to some experts on the subject of bankruptcy for the auto industry.

A recent report released by J.P. Morgan titled, ''Cost of the Alternative,'' described the scenario where one or

more of the Big Three are left to file for bankruptcy as ''Credit Crisis Part II.'' It indicated that unemployment would shoot up by 2 percent if one of the Big Three failed, and this failure scenario would require the Pension Benefit Guarantee Corporation to take over more than $100 billion in obligations that the Big Three currently hold. It noted that Ford and GM and their financial arms ''comprise over 10% of the high-yield bond market and the auto sector represents one of the largest sectors in leverage finance for banks.''

Another recent report by the Anderson Economic Group and BBK calculated the costs in the first year following the failure of two of the Big Three. Such a scenario would cost States $12 billion in tax revenues; it would cost the Federal Government $40 billion in income and Social Security taxes, and it would cost an additional $8 billion in unemployment insurance and $5 billion in significantly increased costs to the Pension Benefit Guarantee Corporation. The report indicates a high risk that inaction by Congress would result in a permanent shift of manufacturing jobs out of the United States and a dependence on foreign technology.

Mr. President, these are risks we cannot take. We must pass this legislation. Without this legislation, one or more of the Big Three will likely collapse in the coming weeks. The U.S. taxpayers would provide a bridge loan to avoid this catastrophe under this bill, but with important protections for their investment, including stock warrants for the Government; limits on excessive executive compensation; a prohibition on golden parachutes; and a prohibition on payments of dividends until the loans are fully repaid. And the so-called auto czar has the ultimate power under this legislation to enforce compliance with the long-term plans of the auto companies that accept these loans: he can call or cancel the loans if he disapproves the auto companies' restructuring plans.

We cannot afford to further destabilize Wall Street, and we cannot afford to allow millions of jobs on Main Streets in communities across the country to disappear. The domino effect of failure would ripple across our entire Nation and add untold suffering to an already dire situation.

I urge my colleagues to support this critical legislation.

As chairman of the Armed Services Committee, I wanted to focus on an aspect of this debate that has not achieved adequate attention. That is the tight, important connection between our domestic auto industry and the future security of this Nation and our men and women in uniform.

We have no greater responsibility than that. That factor, that synergy, that relationship, that connection, is an essential component of this debate.

I hope when our colleagues look at all of the factors, they will consider that important reason for sustaining and supporting an automobile industry in this country. Again, no other Nation is allowing their automotive industry to go down in this global economic disaster we are all in. They have all taken steps to support their industry.

We should too, for many reasons. But one of those reasons, one of the most important reasons we are here in the Senate is to make sure that our men and women in uniform always have the best equipment that can be produced in the world. They put their lives at risk. They are entitled to every advanced technology we can give them.

Part of the production of those technologies the big three is playing today, tomorrow, and hopefully in the future, is a critical role.

Mr. WARNER. Would the Senator entertain a question?

Mr. LEVIN. I did not see my dear friend from Virginia come to the floor. I wish I had, because I wanted to put those parts of my remarks—and they were lengthy, but at a time when he might be hearing them either here or in his office.

Mr. WARNER. Mr. President, we had the opportunity to speak on this subject earlier today. And I reminded my good friend of the extraordinary chapter in American history that was performed by the industrial base in your State and elsewhere across America under the leadership and guidance of those companies manufacturing automobiles after Pearl Harbor, I mean who were in the business of manufacturing at the time of Pearl Harbor. They shut those lines down very quickly and turned to full military production. That is a great chapter in American history. And, fortunately, I am old enough to remember it quite well as a young man.

But today, it is a different industrial base in the automobile industry. Whereas they had a very dominant position in the production of vehicles, particularly tanks, and they did some aircraft and so forth, that has given way to the high-tech aspects which the Senator from Michigan addresses here on the floor for the benefit of our colleagues.

That is a great chapter in American history. I would hope this Nation would never again be faced with as serious a problem as it was in World War II, namely that we had let our Armed Forces get down to very small levels and the equipment was old and tired.

You remember the pictures that they used broomsticks to practice their military maneuvers with and the Model T and Model A automobiles that were used for tanks. But that chapter reflects the potential of not just the companies themselves but the workers and how quickly they took their knowledge and their skilled hands to swing into action and produce the war materials that we needed very quickly.

Today our military is much stronger, well equipped, thanks to the distinguished chairman and others who have served with us on that committee. I think the likelihood of our Nation ever being confronted with a conflict that would have to require that enormous buildup is not, hopefully not there, but nevertheless we should remember that chapter.

It documents the capabilities of the workers and the families in this industry. I think you pointed with great pride to that era. I might add to my colleague's comment, he closed by asking all Senators to consider this very carefully. As I finish up my 30 years, I have been to a lot of Republican caucuses. We had one yesterday at noon. We just completed another. And the gravity of this issue is reflected in the gravity of the careful, very careful consideration being given by every member in our caucus. I can tell you that without any question. I am not suggesting exactly which way they are going to go. But I know that they have the best interests of the country in mind, and the gravity of the situation is enormous. You can detect it as you hear the colloquies going on on our side. I am sure the same is taking place the Senator's.

Mr. LEVIN. Mr. President, first, I thank my dear friend from Virginia. This will probably be, we keep saying, the last opportunity we have to speak with each other on the floor of the Senate. It may be, it may not be, as it turns out. But I know of no Member of this body who has put the interests of this Nation more deeply in his heart than the Senator from Virginia.

There are others who probably share that with him; I know there are, but the focus which I gave here today outlining the current relationship between the big three and the technologies that are embedded right now in our vehicles, and the effort in a collaborative way between our domestic automobile industry and our Army vehicle industry, to give us lighter vehicles, more survivable vehicles, crashworthy vehicles, vehicles that use less gasoline, vehicles that have the global positioning devices that can say exactly where they are and communicate that, these technologies are embedded now and will continue hopefully to always be at the forefront, at the cutting edge of technology to give our troops what I know the Senator from Virginia has devoted his life to; that is, to giving our troops every edge we can.

The big three not only has been part of that on the vehicles, as the Senator notably points out in terms of looking back, but that is the current situation—deep connections, synergies, collaboration going on as we speak, and planned for the years ahead.

If we rip apart that connection, by allowing the big three to go under, that tremendous capability they have to join with the Army on vehicles, particularly, will be rendered useless or will no longer exist. That would be a terrible tragedy for our Nation's security.

Again, I am glad my great friend from Virginia was able to come to the

floor to share with me some thoughts about this relationship that is not only historical and one which we take great pride in as a nation, that ability to quickly expand, to turn a manufacturing, an industrial base into an arsenal of democracy.

That hopefully will not happen, as the Senator points out. Maybe it is less likely to happen. But we must be there when it does. That aspect has been focused on by others, the need to be able to have a manufacturing base for our national security and to have a base of suppliers for our national security. I have tried to add another aspect to this argument that points to the relationship between the survival of our big three and our national security by pointing out the ongoing relationship in the area of research and development, which has produced critically important technologies currently in our vehicles and developing today the technologies which will make future vehicles.

Mr. WARNER. Our military vehicles.

Mr. LEVIN. Absolutely.

Mr. WARNER. I wish to make that clear because that technology has been available in the open market to those manufacturers, other than the oil industry, which have, in a remarkable way, taken these up-armored vehicles, that general category we have today, very quickly, to the great credit of the Secretary of Defense, Secretary Gates, he put together a structure of five companies to get into immediate production of those vehicles and into those vehicles has gone the development and technology that our distinguished colleague from Michigan has described.

Mr. LEVIN. Thankfully, we still have a few colleagues, including the great Senator from Virginia, who have a personal connection to that war.

Mr. WARNER. It was very minor, but it was a privilege to have been associated with that generation.

Mr. LEVIN. I thank my friend from Virginia.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3 o'clock.

Thereupon, at 2:17 p.m., the Senate recessed until 3:03 p.m. and reassembled when called to order by the Presiding Officer (Ms. KLOBUCHAR).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Minnesota, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Ms. MIKULSKI. Madam President, I ask unanimous consent that the period for the transaction of morning business be extended until 5 p.m., with Senators permitted to speak for up to 10 minutes each.

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

Ms. MIKULSKI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

SILO TAX SHELTER

Mr. BAUCUS. Madam President, the House bill before us contains a provision that causes me great concern. The provision would make the U.S. Government an active participant in an abusive tax shelter transaction.

In the past, Congress has voted to shut that tax shelter down. And this week, I sought to offer an amendment to strike the provision from this bill. But I have been prevented from offering that amendment. That this provision will remain in the bill makes this bill a far less attractive measure.

Section 18 of the bill requires the United States to serve as a guarantor of obligations incurred by domestic subway and other transportation systems. These obligations arise from the systems' participation in leasing arrangements called lease in/lease out, or LILOs, and sale in/lease out, or SILOs.

LILOs and SILOs are sham transactions. The IRS has designated them as ''listed'' tax shelters. That means that these tax shelters are among the most egregious abuses of the tax law.

LILOs and SILOs are very complicated deals, designed to look like legitimate leasing transactions. But in reality, they are shams.

In a SILO, a tax-exempt entity nominally ''sells'' an asset, like a subway system. The other party to the deal is an investor who is subject to taxation and who needs a tax write-off. The investor nominally ''buys'' the asset. The investor then nominally ''leases'' the asset back to the tax-exempt entity.

In truth, the benefits and burdens of ownership never shift. And the sale and the lease have no economic reality.

These parties purport to make purchase payments and rent payments. But in reality, these payments are just paper entries, facilitated by a bank that is in on the deal. The investor pays the tax exempt entity an up-front fee in exchange for its willingness to participate in the deal. But other than that, no real money changes hands.

There is little, if any, risk to any party to these transactions. That is because the deal is cooked from the beginning. It is planned so as to eliminate any risk.

But there are significant tax benefits to the investor. The investor gets interest and depreciation deductions. And those deductions generate tax losses. Employing these tax losses, the investor pays less tax on income that the investor earns elsewhere.

This chart illustrates how a SILO transaction works. You do not have to understand all the details to see how complicated the transaction is.

As Chairman of the Finance Committee, I have had these deals on my radar screen for quite some time. In 2003, the Finance Committee held a hearing with a confidential informant. The witness risked his professional reputation to tell us how abusive LILO and SILO transactions are.

I pushed for legislation to shut these deals down. The 2004 Jobs Act eliminated the tax benefits for most of the investors who had entered into these transactions.

Since 2005, I have worked to shut down the remaining deals that the Jobs Act failed to address. Unfortunately, our efforts have met with resistance. Some argue that shutting down these transactions would be applying law retroactively. But I believe that these transactions always violated the law, as they lack any economic substance.

In the Tax Increase Prevention and Reconciliation Act of 2005, Congress imposed excise taxes on tax-exempt entities and their managers who entered into tax shelter transactions. That law recognized the role that some tax exempt entities, including transit agencies, played as ''accommodating parties'' to tax shelter deals.

Since 1999, the IRS has devoted considerable resources to shutting down these deals. The IRS has designated both LILOs and SILOs as ''listed'' tax shelter transactions. The IRS has audited every one of these transactions that it could find. The IRS has litigated four cases, and won every time. Recently, the IRS announced a settlement initiative to shut down the remaining cases and reports an 80-percent participation rate.

We have been trying to stop these tax shelters for years. So how does the Government end up guaranteeing this kind of tax shelter? The complicated structure of LILOs and SILOs plays a part.

Under the terms of the agreements, transit agencies are required to obtain a guarantee from an insurer. The insurer guarantees that the agencies will be able to buy back the subway at the end of the lease period. The agreements require that the insurer have a very high credit rating.

The current economic crisis has caused downgrades of insurers' credit ratings. That has put the tax-exempt entities into technical default on their agreements. Under the agreements, when the tax-exempt entities default, the investors have a right to terminate the lease.

The investors are taking advantage of this legal opportunity. They are trying to cash in. The investors are attempting not just to recoup the nominal purchase price of the assets. They are also demanding that the transit agencies pay over the value of the tax benefits that the investor will lose as a result of the premature unwinding of

the deal. The value of the tax benefits can be many times the putative purchase price.

This chart that I referred to earlier is an exhibit from a lawsuit, Hoosier Energy v. John Hancock Life Insurance. In that case, the Monroe County Circuit Court in Indiana issued a temporary injunction barring John Hancock from collecting on the technical default.

Transit agencies do not have lots of excess money just sitting around. So they have come to the Congress asking for a guarantee from the U.S. Government.

Now I do not want our Nation's subway systems to be at risk. I am open to considering ways to help keep them financially sound.

But I am unwilling to do so at the expense of American taxpayers. The bill before us today asks taxpayers to put their tax dollars at risk. The bill asks taxpayers to guarantee transit agencies who knowingly and willfully entered into deals that had no economic substance and were designed for the sole purpose of avoiding taxes.

The Government has come under much criticism for actions it has taken to jump-start our economy. But deliberately involving the U.S. Government in a tax shelter scam would add fuel to that fire.

We must not add legitimacy to an abusive transaction that the Congress, the courts, the Treasury, and the IRS have spent years trying to shut down.

We must not undermine the good efforts of the IRS to prosecute these cases. We need the IRS to accomplish as much work as it can to eliminate these and other scams.

We must not ask American taxpayers who struggle to pay their taxes to underwrite deals set up to help wealthy investors attempting to shelter their income.

The approach in the bill before us today is not a solution. Stepping in to guarantee these deals exposes American taxpayers to ongoing risk. Some event could trigger a requirement that the Government pay the investors. This bill puts taxpayers on the hook for a long time.

In addition, I understand that this proposal applies to only 80 percent of the transit agencies that entered into these tax shelter deals. What about the other 20 percent of the systems who are not covered? What happens to them? We need a fair and balanced approach to resolve this issue.

We would do better to figure out a way to discourage investors from acting on the technical default simply because the insurer's credit rating has been downgraded. A downgrade does not mean that the insurer is not good for the money. I intend to explore options with this goal in mind. We need a solution that protects both the transit agencies and the American taxpayer.

Finally, this is an auto bill. We should not forfeit the opportunity to bolster our automotive industry by cluttering up the bill with unrelated and controversial proposals.

There is a proper time and place for everything. This is neither the time nor the place to divert attention from our immediate task, helping our automakers.

This provision has no business in the auto bill. The Senate should take the provision out. And if the Senate does not take the provision out, it will only add to the burdens that are weighing this bill down.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I ask unanimous consent to speak for 15 minutes.

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

Mr. GRASSLEY. Madam President, I come to the floor to back up the chairman of the committee, Senator BAUCUS, who has spoken on the very same issue. We have had a close working relationship for 8 years as either chairman and ranking member, and those changed from time to time. Part of our effort of working together has been to close down abusive tax shelters. So I am here to support what he said and to say, in my own words, my reasons for wanting this provision out of the bill. The bottom line of what I am saying is the bottom line of what Senator BAUCUS has already said. This tax provision has no business being in this bill.

There is a provision in this auto bailout bill that deals with a number of transit agencies that assisted corporations in tax shelters. This provision in the auto bailout bill has nothing to do with automakers. It would prop up a tax shelter that Senator BAUCUS and I shut down in the year 2004. Shutting down that tax shelter saved American taxpayers $26.56 billion, according to the nonpartisan Joint Committee on Taxation. That is real money. So we should be very protective of making sure money that by subterfuge was not going to come into the Federal Treasury comes back to the Federal Treasury and is not used in the future. This tax shelter is commonly referred to as sale-in, lease-out, or by the acronym SILO, or another program lease-in, lease-out that we refer to by the acronym LILO. This tax shelter bailout within the automaker bailout bill would have the Federal Government guarantee obligations that public transit agencies now face because they entered into shady deals with corporations, including foreign corporations, where they sold things such as the transit agencies' own train cars and then magically leased them back from these corporations to do what they were doing all the time anyway, hauling people.

This was not done to change the way the transit agency operated but, instead, to collect a fee for assisting the tax shelter, where the corporations could take advantage of the tax deduction for depreciation of things such as these train cars.

As chairman of the Senate Finance Committee in 2004, I worked hard to shut down these tax shelters as a matter of tax fairness, and Senator BAUCUS was there working closely with me to do that. The Internal Revenue Service has been working to recover money from these deals. If this tax shelter bailout were to pass, it would interfere with the working of the IRS in these efforts to collect money that should never have been deducted in the first place.

This tax shelter bailout can change the cost-benefit analysis for those tax shelter corporations that are considering settling their disputes with the IRS over the SILO/LILO tax shelters. It is wrong for the auto bailout bill to bail out transit agencies from participating in these shady tax shelters. The Federal Government should not guarantee the transit agencies' obligations to corporations, including foreign corporations, when doing so allows the tax shelter to continue as it did before 2004, and these corporations, including foreign corporations, to continue taking tax shelter deductions for things such as transit agencies' train cars.

If the Federal Government is called upon to pay the guarantees of the transit agencies' obligations to these tax shelter corporations, including foreign tax shelter corporations, then the hardworking U.S. taxpayer will be sending money directly to these foreign corporations and others. I don't know how many, but we know foreign corporations are very much involved.

These tax shelters were, in fact, set up so corporations were able to take large depreciation deductions. However, the tax shelter needed a nontax-paying entity that had large amounts of assets that could be depreciated. So that is where the transit agencies come in. The transit agencies were paid millions of dollars to do nothing, simply sign papers and go about business as usual of transiting people within cities or between cities, as they were doing before this tax shelter was ever thought up. The transit agencies are called accommodation parties in tax shelter lingo. They are called this because, in exchange for their fee, they helped make tax shelters work for corporations that were bilking the U.S. taxpayers out of billions of dollars, and those billions of dollars were lost revenue to the Federal Treasury.

This auto bailout bill proposes to bail out the transit agencies from the consequences of their bad judgment of entering into tax shelters. I say ''bad judgment'' because they ought to know this doesn't make sense. Some lawyer might tell you: We can get by with this because we found this loophole in the tax laws. But, in fact, lawyers can find anything. The English language is not so perfect that we write perfect pieces of legislation that somebody who is wise can't find a way around. That is what happened prior to 2004, before Senator BAUCUS and I shut it down.

As the transit agencies have found out—and that is why they are coming to the bailout bill for some help—when

you lie down with dogs, you get fleas. Now that the transit agencies have fleas due to their participation in this tax shelter scheme, they want the Federal Government to be their flea remover. If this provision is enacted and if the Federal Government guarantees the transit agencies' tax shelter obligations, it will actually help these shady tax shelter deals stay alive longer and, who knows, encourage more of this in the future. We are trying to shut down a business I consider illicit, people going through the Tax Code and seeing where they can find a tax loophole and writing a program and go out and sell it. They go out and sell it to somebody else, then flee to the woods, and some corporation or individual has to defend it themselves, and they can't. They get stuck with the tax bill from the IRS. We want to shut down the tax shelter-writing business.

I will not help the transit agencies avoid the consequences of their participation in these tax shelters. I do not want to put U.S. taxpayer money on the line to support tax shelters that have been stealing from these same taxpayers.

I am aware that as early as February 2000, we had a Federal initiative from the executive branch. In the year 2000, the Federal Transit Administration, under the Clinton administration, used to advocate these tax shelter deals to transit agencies as innovative financing. The Federal Transit Administration's promotion of these tax shelters was shameful, and it gave a legitimacy to it. I suppose it even encouraged further tax shelter people to write. But in 2004, Senator BAUCUS and I said: Enough is enough. That is why the legislation was passed in 2004, shutting down these and saving the taxpayers that $25 billion the Joint Committee on Taxation said could be saved; in other words, paid into the Federal Treasury, instead of some sharp lawyer finding a way to keep it out of the Federal Treasury.

Going back to when these were first being instituted by the Federal agency or encouraged by the Federal agency, we did have the IRS responding to that. So you had one agency promoting something. You had the IRS issue a revenue ruling that came out against these tax shelters. But between that 1999 March 1 date and the time Senator BAUCUS and I finally concluded this needed to stop in 2004, we still had a bunch of these deals consummated. Even if the transit agencies were not aware of the IRS's position, the transit agencies should have realized that getting money for essentially doing nothing ought to be too good to be true. If it sounds too good to be true, it probably is not the right thing to do. That is common advocacy to any consumer in America met by some snake oil salesman who comes along to sell a product. If it sounds too good to be true, you ought to raise questions about it.

We even have a situation where every court that has considered these transactions has ruled they are abusive tax shelters and has not allowed the tax breaks claimed by the corporation that engaged in the tax shelters. Three of these court cases are BB&T Corporation, the Fifth Third Bancorp, and AWG Leasing Trust. In a recent court opinion involving John Hancock Life Insurance Company, Chief Judge David Hamilton of the U.S. District Court for the Southern District of Indiana wrote that the SILO deal at issue was ''pure, abusive tax shelter,'' was ''rotten to the core'' and was ''a sham without economic substance.''

Additionally, in February 2004, Senator BAUCUS and this Senator sent letters to Washington, DC, New York City, and Chicago transit agencies asking for their assistance in an investigation of these abusive tax shelters.

I ask unanimous consent that these three letters be printed in the RECORD.

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

FEBRUARY 12, 2004.

RICHARD A. WHITE,
CEO, Washington Metropolitan Area Transit Authority, 600 Fifth Street, NW., Washington, DC.

DEAR MR. WHITE: We are writing to enlist the assistance of the Washington Metropolitan Area Transit Authority in our ongoing investigation of abusive tax shelters. On October 21, 2003, the Committee on Finance held a hearing regarding the continuing proliferation of abusive tax shelters. During that hearing, we learned that shelter promoters are engaging in transactions with U.S. municipalities and other state and local governmental units, which allow major U.S. corporations to depreciate state and local infrastructure assets, such as railways, subways, dams, water lines, and air traffic control systems. Our subsequent investigations have disclosed that federal agencies have endorsed these transactions, even though the Department of the Treasury had classified them as abusive tax shelters.

Under this scheme, municipalities are paid an up-front cash fee to enter into a long-term lease of their infrastructure to the tax shelter promoters. The cash received by the municipality, however, pales in comparison to the federal tax benefits received by the corporations, which will be able to depreciate taxpayer-funded bridges, subways, and rail systems as a result of the lease. As part of the same agreement, the promoters will agree to simultaneously lease the assets back to the municipality. The obligations of the promoters and municipalities are prepaid through ''phantom'' debt, and neither the tax promoters nor the municipality assumes any credit or ownership risk. At the end of the lease term, the infrastructure assets revert back to the municipality. In reality, nothing changes regarding the ownership or use of the infrastructure. One municipal manager described these transactions as ''People giving him money which he never had to pay back, for doing something that he was already doing.''

In March 1999, the Department of the Treasury under the Clinton Administration initiated enforcement actions against these transactions, which are called LILOs—an abbreviation of their industry name ''lease-in-lease-out'' transactions. We have further learned that these transactions have continued, albeit in a different form, and that other federal agencies may be approving these transactions. The LILO transactions have now been replicated through service agreement contracts and transactions called SILOs—''sales-in-lease-out.'' Other variations on these transactions have involved qualified technology equipment (QTEs).

We are certain that you share my concern that subway systems, water lines, waste treatment plants, and air traffic control systems constructed with taxpayer dollars are being used by big corporations to shelter billions of dollars in taxes through bogus depreciation deductions. In order to assist us in assessing the scope and scale of this problem, I request that the Washington Metropolitan Transit Authority submit to the Committee on Finance copies of all LILOs, SILOS, QTEs, and similar transactions that have been approved, funded, or otherwise reviewed by the Washington Metropolitan Area Transit Authority from the year 1995 to present. If you have any questions regarding this request, please contact Ed McClellan or Matt Genasci of the Senate Finance Committee at (202) 224–4515.

We appreciate your cooperation in our ongoing efforts to combat abusive tax shelters, and look forward to receiving these materials as soon as possible.

With best personal regards,

CHARLES E. GRASSLEY,
Chairman.

MAX BAUCUS,
Ranking Member.

FEBRUARY 12, 2004.

LAWRENCE G. REUTER,
President, New York City Transit, Jay Street, Brooklyn, NY.

DEAR MR. REUTER: We are writing to enlist the assistance of New York City Transit in our ongoing investigation of abusive tax shelters. On October 21, 2003, the Committee on Finance held a hearing regarding the continuing proliferation of abusive tax shelters. During that hearing, we learned that shelter promoters are engaging in transactions with U.S. municipalities and other state and local governmental units, which allow major U.S. corporations to depreciate state and local infrastructure assets, such as railways, subways, dams, water lines, and air traffic control systems. Our subsequent investigations have disclosed that federal agencies have endorsed these transactions, even though the Department of the Treasury had classified them as abusive tax shelters.

Under this scheme, municipalities are paid an up-front cash fee to enter into a long-term lease of their infrastructure to the tax shelter promoters. The cash received by the municipality, however, pales in comparison to the federal tax benefits received by the corporations, which will be able to depreciate taxpayer-funded bridges, subways, and rail systems as a result of the lease. As part of the same agreement, the promoters will agree to simultaneously lease the assets back to the municipality. The obligations of the promoters and municipalities are prepaid through ''phantom'' debt, and neither the tax promoters nor the municipality assumes any credit or ownership risk. At the end of the lease term, the infrastructure assets revert back to the municipality. In reality, nothing changes regarding the ownership or use of the infrastructure. One municipal manager described these transactions as ''People giving him money which he never had to pay back, for doing something that he was already doing.''

In March 1999, the Department of the Treasury under the Clinton Administration initiated enforcement actions against these transactions, which are called LILOs—an abbreviation of their industry name ''lease-in-lease-out'' transactions. We have further learned that these transactions have continued, albeit in a different form, and that

other federal agencies may be approving these transactions. The LILO transactions have now been replicated through service agreement contracts and transactions called SILOs—''sales-in-lease-out.'' Other variations on these transactions have involved qualified technology equipment (QTEs).

We are certain that you share my concern that subway systems, water lines, waste treatment plants, and air traffic control systems constructed with taxpayer dollars are being used by big corporations to shelter billions of dollars in taxes through bogus depreciation deductions. In order to assist us in assessing the scope and scale of this problem, I request that New York City Transit submit to the Committee on Finance copies of all LILOs, SILOs, QTEs, and similar transactions that have been approved, funded, or otherwise reviewed by New York City Transit from the year 1995 to present. If you have any questions regarding this request, please contact Ed McClellan or Matt Genasci of the Senate Finance Committee at (202) 224–4515.

We appreciate your cooperation in our ongoing efforts to combat abusive tax shelters, and look forward to receiving these materials as soon as possible.

With best personal regards,

CHARLES E. GRASSLEY,
Chairman,
MAX BAUCUS,
Ranking Member.

FEBRUARY 12, 2004.

FRANK KRUESI,
President, Chicago Transit Authority, Merchandise Mart Plaza, Post Office Box 3555, Chicago, IL.

DEAR MR. KRUESI: We are writing to enlist the assistance of the Chicago Transit Authority in our ongoing investigation of abusive tax shelters. On October 21, 2003, the Committee on Finance held a hearing regarding the continuing proliferation of abusive tax shelters. During that hearing, we learned that shelter promoters are engaging in transactions with U.S. municipalities and other state and local governmental units, which allow major U.S. corporations to depreciate state and local infrastructure assets, such as railways, subways, dams, water lines, and air traffic control systems. Our subsequent investigations have disclosed that federal agencies have endorsed these transactions, even though the Department of the Treasury had classified them as abusive tax shelters.

Under this scheme, municipalities are paid an up-front cash fee to enter into a long-term lease of their infrastructure to the tax shelter promoters. The cash received by the municipality, however, pales in comparison to the federal tax benefits received by the corporations, which will be able to depreciate taxpayer-funded bridges, subways, and rail systems as a result of the lease. As part of the same agreement, the promoters will agree to simultaneously lease the assets back to the municipality. The obligations of the promoters and municipalities are prepaid through ''phantom'' debt, and neither the tax promoters nor the municipality assumes any credit or ownership risk. At the end of the lease term, the infrastructure assets revert back to the municipality. In reality, nothing changes regarding the ownership or use of the infrastructure. One municipal manager described these transactions as ''People giving him money which he never had to pay back, for doing something that he was already doing.''

In March 1999, the Department of the Treasury under the Clinton Administration initiated enforcement actions against these transactions, which are called LILOs—an abbreviation of their industry name ''lease-in-lease-out'' transactions. We have further learned that these transactions have continued, albeit in a different form, and that other federal agencies may be approving these transactions. The LILO transactions have now been replicated through service agreement contracts and transactions called SILOs—''sales-in-lease-out.'' Other variations on these transactions have involved qualified technology equipment (QTEs).

We are certain that you share my concern that water lines, waste treatment plants, and air traffic control systems constructed with taxpayer dollars are being used by big corporations to shelter billions of dollars in taxes through bogus depreciation deductions. In order to assist us in assessing the scope and scale of this problem, I request that the Chicago Transit Authority submit to the Committee on Finance copies of all LILOs, SILOs, QTEs, and similar transactions that have been approved, funded, or otherwise reviewed by the Chicago Transit Authority from the year 1995 to present. If you have any questions regarding this request, please contact Ed McClellan or Matt Genasci of the Senate Finance Committee at (202) 224–4515.

We appreciate your cooperation in our ongoing efforts to combat abusive tax shelters, and look forward to receiving these materials as soon as possible.

With best personal regards,

CHARLES E. GRASSLEY,
Chairman.
MAX BAUCUS,
Ranking Member.

Mr. GRASSLEY. I have been fighting against SILO/LILO tax shelters for a long time, as has Senator BAUCUS. In October 2003, the Finance Committee held hearings on the status of abusive tax shelter activities. During that hearing, we received anonymous testimony from a leasing industry executive that used the name Mr. Janet. He described how U.S. corporations were able to take tax deductions for such things as the Paris, France, sewer lines and the New York subway system. Major corporations were claiming tax deductions on taxpayer-funded infrastructure located in the United States and overseas.

Imagine our surprise when we learned that U.S. taxpayers were subsidizing the cost of electric transmission lines in the Australian outback. I find it hard to believe that a corporation was actually taking a tax deduction for the New York City transit car pictured here. However, that is exactly what greedy corporations were doing. Just like the greedy tax shelter promoters who were handing out U.S. taxpayer money to greedy corporations by selling these shady tax shelters to them, the House voted last night to put U.S. taxpayer dollars on the line to bail out tax shelter participants and perpetuate these abusive tax shelters.

If we look at all the key congressional players on this deal, we will find that, perhaps not by coincidence, nearly all of them represent areas where these transit shelter deals were done. These tend to be the biggest cities. They tend to be the areas where the shops that hired the sharpies that manufacture these tax shelters do business. Most of these key congressional players for years, especially when Republicans were in the majority, railed against tax shelters. Now we find that for these key congressional players, the imperatives of the transit lobby decisively outweigh the importance of cracking down on a tax shelter that a Federal judge rightly described as ''rotten to the core.''

This reminds me of the Joker from the 1989 version of ''Batman,'' who says: ''I'm giving out free money.'' You know the Joker, as shown on this chart. You have seen him. ''I'm giving out free money.'' As we all know, money is not free. Unfortunately, the joke here has been—and will again be if we do not do something about it—on the American taxpayer. Literally, the guarantee continues the cruel tax shelter joke on the American taxpayers' dime.

I urge my colleagues in the Senate to not allow this cruel joke to be played on the American taxpayers. I have fought against these tax shelters in the past, and I will continue to fight against them in the future. This provision puts taxpayers' dollars on the line and perpetuates an abusive tax shelter. In fact, it puts the U.S. Government in the position of guaranteeing tax benefits that corporations, including foreign corporations—again, I want to emphasize—hope to reap from engaging in these tax shelters. So as Senator BAUCUS has just done—and I thank him for his leadership—I urge my colleagues to vote against this bill which contains a bailout for tax shelter participants.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Kentucky.

Mr. BUNNING. Mr. President, are we as in morning business?

The PRESIDING OFFICER. We are in morning business, Senator.

Mr. BUNNING. Thank you.

Mr. President, I rise to speak on the auto bailout proposal before the Senate. But before talking about any legislation, I wish to say that I am very concerned, as everybody in the United States is, about the state of the auto industry, not only in Detroit but other States that have a great deal of auto workers and related industries.

As I said at the first Banking Committee hearing on this issue, I am not concerned about any sense of American pride or because of the great history of the American auto industry. What concerns me is the workers—the men and women who assemble our cars and trucks, who sell and service the vehicles, and those who work for the suppliers who keep the industry running.

Auto manufacturing is the largest manufacturing sector in my Commonwealth. That is the Commonwealth of Kentucky. I know Detroit's pain is felt in many towns and cities in Kentucky. In many counties, jobs supplying parts to GM, Ford, or Toyota are some of the best jobs anywhere in Kentucky. Those jobs are in danger, and I am concerned for the workers and their families.

The question facing Congress is what, if anything, we can and should do about the industry's current problems.

As I understand it, one of the two bills that is going to come before the Senate—as soon as this afternoon—one is the bill passed by the House, and the other is a similar Senate proposal. Unfortunately, much like the other bailouts we have passed, those bills rely on hopes and promises of future actions and do not require serious concessions. Those bills do not address the immediate problems facing the industry, which is a lack of funding for car loans and dealer floor plans, and many other related issues.

While the Detroit manufacturers were forced by the economic crisis to come to Congress for aid at this time, their problems are not just the result of problems in our current financial markets. The companies are simply uncompetitive in today's marketplace because of decades of bad business decisions by both the corporate management and the labor unions. What is needed is a serious restructuring of the companies that brings their costs in line with the costs of cars made by manufacturers such as Honda and Toyota and their capacity in line with the true demand for new cars, not the artificially inflated demand of the last few years.

Neither the House bill nor the Senate bill forces these companies and their stakeholders to make the changes necessary to force restructuring. The so-called car czar has no real power to make the companies and stakeholders reach an agreement accomplishing the cost and capacity changes that must be made. Because the companies would not survive in the long term without those changes, they would be back before Congress next year asking for more money to get them through the next few months, and back again and again. That is an irresponsible use of taxpayer dollars and would ultimately lead to the death of the companies and many thousands and thousands of jobs permanently being lost. Because I care too much about the workers, I cannot support either of these bills as they are currently written.

I have previously said I would support Federal assistance for companies if they undertake a chapter 11 bankruptcy restructuring. Federal financing and warranty guarantees would enable the companies to emerge from that restructuring successfully and more quickly than they would otherwise. Senator SHELBY and Senator ENSIGN have an amendment to do just that, and I will be supporting their amendment if they are allowed to have a vote on it on the floor of the Senate.

However, chapter 11 bankruptcy is not the ideal solution, and I know just the word ''bankruptcy'' causes many people whose jobs, retirement, and health care depend on the companies to shudder. A similar restructuring that accomplishes significant changes outside of bankruptcy would work as well. Senator CORKER has an amendment that would require those significant changes as a condition of Federal assistance provided in the majority's bill. If the majority allows a vote on Senator CORKER's amendment, I will support it. If the amendment is adopted to the Senate version of the bill, I will support passage. If the majority blocks any minority amendments, as they have done for nearly the entire Congress, I will oppose the bill and any cloture motions.

I will go ahead and state for the record that if the Corker amendment passes and the bill becomes law, I will oppose any and all attempts to weaken its requirements. Now, I say that knowing full well that I am very concerned that come January 20, the majority might try to rewrite the requirements so that the companies are not forced to make painful changes that are necessary for them to survive in the long term. I hope that will not be the case.

For these companies to survive and thrive, there must be painful changes made, and we all know some jobs will be lost. However, with a successful restructuring, the Corker amendment being included, more jobs will be preserved for the long term than if we just prop up the companies with taxpayers' dollars for a few short months and hope for the best.

Mr. President, I yield the floor.

Mr. President, since no one else is in the Chamber, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I would like to speak for less than 10 minutes as in morning business.

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

Mr. GRASSLEY. I thank the Chair.

HOLDER NOMINATION HEARING SCHEDULE

Mr. GRASSLEY. Mr. President, I would like to discuss Eric Holder's nomination to be the U.S. Attorney General. While Mr. Holder appears to have the appropriate credentials and work experience, it is important that the Judiciary Committee be able to fully and carefully vet the candidate for this important position because this is the Nation's top law enforcement officer.

I was surprised to hear that the chairman of the Judiciary Committee noticed Mr. Holder's confirmation hearing for January 8, 2009. Mr. Holder was only formally announced as the prospective Attorney General nominee on December 1 of this year. I understand the Judiciary Committee has a large number of boxes of archived documents relating to his employment at the Justice Department, and those materials need to be reviewed. We have not even gotten Mr. Holder's questionnaire, nomination materials, or FBI background investigation yet. Judiciary Committee members just sent a letter to the Justice Department and the Clinton Library requesting documents relating to issues that Mr. Holder was involved in during his tenure in the Clinton Justice Department. Once we get these materials and once these documents come to us, it will take some time for committee members to review them.

While it is not unprecedented for the Judiciary Committee to hold a hearing prior to the inauguration of a President, such as the one held for former Attorney General John Ashcroft, there are significant differences. First, the Ashcroft nomination hearing was held from January 16 to January 19, 2001, obviously giving committee members more breathing room to review his record. Moreover, Attorney General Ashcroft was a well-known quantity to us because he served as our colleague in the U.S. Senate and he was a prominent member of the Judiciary Committee. Of course, this was all prior to his nomination for Attorney General. Even then, my colleagues on the other side of the aisle insisted on 2 days of testimony from the nominee and 2 days of testimony from 23 other outside witnesses, for a total of 4 days of hearings.

The bottom line is that the proposed January 8 hearing timetable doesn't give members a full and fair chance to consider Mr. Holder's background as thoroughly as we should. We must have time to comprehensively examine all of Mr. Holder's information, materials, and documents, most of which we haven't even received yet. There is no need to jump the gun and undermine our oversight responsibilities.

This is all the more important because Mr. Holder is not a nominee free and clear of issues. The fact is Mr. Holder played a very key role in some very controversial matters, and since his nomination, a number of newspapers, including the New York Times, the Washington Post, and the Wall Street Journal, have all published articles reminding the public of those controversies and raising serious questions about Mr. Holder's role in them. These issues need to be fully considered by members of the Judiciary Committee and eventually by the full Senate.

For example, red flags about Mr. Holder's judgment and independence include his role in securing pardons or clemency for an unrepentant billionaire fugitive tax cheat such as Marc Rich or terrorists such as members of the FALN and Weather Underground. A lot of people—including this Senator—have found these facts to be troubling. As I previously mentioned, a number of editorials have been written asking questions about how those facts impact Mr. Holder's ability to serve as U.S. Attorney General. I expect to question Mr. Holder at his confirmation hearing about these and other controversial matters he has been involved with.

In addition, Mr. Holder has been in private practice since he left the Clinton Justice Department over 8 years ago. It is important that we know what Mr. Holder has been doing in those 8 years, which cases he has been involved with, and who his clients are, what speeches he has made, and so forth. For example, public reports have emerged that in 2004, the Governor of Illinois hired or sought to hire Mr. Holder. We certainly need time to learn what that is all about. Mr. Holder has not provided the committee with all of this information yet. Again, it is not unreasonable for members of the Judiciary Committee to want to receive all of these materials and have ample opportunity to study them before holding the nomination hearings. As such, I, then—this Senator, then—is in support of Senator SPECTER's request that Chairman LEAHY move the hearing to a later date in January so committee members can do their duty and review Mr. Holder's nomination in a responsible manner.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, we have been working, as I think the country knows and the Senate knows, for the last many weeks trying to come up with some way to resolve the issue of dealing with Detroit and the automobile manufacturers. We thought we were at a place today where we would have a series of votes and we were almost there when another Senator submitted another idea. As a result of that, there are good-faith negotiations going on as we speak. The last I heard is that they would have something completed by 5:30. I kind of smile when I say that, because considering the years I have spent here in the Senate, sometimes I don't know if they are referring to ''5:30'' meaning 10 minutes from now or 12 hours and 10 minutes from now, but they said 5:30. If they are able to work that out, then the bill will overwhelmingly pass the Senate. I have told the House and the House will have to do whatever they do with that. But right now, that is not done.

As I indicated, they said they thought a half hour or so ago it would be done by 5:30. I hope that is the case. I know it is late. I know people want more definite definitions of when this is all going to happen, but that isn't the way the Senate works, as much as we would all like it to be. So if everyone will be patient, there is still a possibility—and even maybe a probability—that sometime this evening we would be able to vote.

Now, Senator MCCONNELL and I don't know at this stage what we will be voting on. If the negotiations which are going forward now bear fruit, then that will be the issue that I think would pass with a significant margin here in the Senate. There may be some other Senators who want to offer alternatives. I think there may be some suggestions for that to take place. At this stage, I think it is pretty clear that there is no need to vote on the House measure, because it is pretty clear there aren't enough votes to pass that, but those decisions we will make shortly. I think what we are going to be voting on is a series of competing alternatives. There is not going to be an opportunity to offer a lot of individual rifleshot amendments to these different proposals, but I know that a number of Senators have one proposal. We have the one we talked about we will probably vote on today, and then we have the bipartisan issue that is being worked on right now. If we are fortunate, maybe we could wind up having three votes or maybe only two votes. But, anyway, we are doing our best to resolve this issue.

There is no need to talk about all of the Senators involved. We will do that if we can work something out and they will get all the accolades they need. We have had a lot of cooperation today. That doesn't mean we are going to be able to work something out, because this is a very important issue. But right now, I think we are a lot further down the road than I thought we would be. I was trying to think: Down the road distance, so it should be ''farther'' down the road. But, anyway, I wish to alert everyone they should be patient tonight. We hope to have some votes before the night is out.

If everything falls apart, then we will be left with having a cloture vote on the Democratic version. Regardless of whether we work something out, that would be tomorrow morning, as early as we want to come in, but hopefully, that is not the resolution of this because that may not be the best way to solve the problem of Detroit.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the period of morning business be extended until 6:30 p.m. tonight with Senators allowed to speak therein for up to 10 minutes each.

Of course, the Senators are always very cooperative. If, in fact, there is something that Senator MCCONNELL and I have been able to work out, then we will ask that the person be interrupted and we will try to move forward with a unanimous consent agreement.

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

Mr. REID. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MAKING TECHNICAL CORRECTIONS RELATED TO THE PENSION PROTECTION ACT OF 2006

Mr. BAUCUS. Mr. President, in a moment I will ask unanimous consent that the Senate proceed to passage of H.R. 7327, the pension bill. Before I do that, I wish to say this is very important relief for seniors and for the country. The bill includes a provision that would allow seniors who are 70½ years of age not to have to make withdrawals from their IRA accounts that the current law requires. Under current law, if you are 70½ or older, you must begin to withdraw significant amounts from your 401(k) accounts or IRA accounts and if you don't, you pay a big penalty. At these times it is not wise to require that, because the accounts are lower in value and they should not have to make those withdrawals if they don't want to.

In addition, this legislation would allow companies to postpone making increased contributions to their pension plans also required by the recent pension law. When we revised pension law a short while ago, we were pretty strict to protect employees by requiring companies to make contributions to the pension plans at a much faster rate. That made sense then, but given the economic downturn, with the market values down so much lower than they were back then, it makes sense, I believe—and I think most Senators agree—that those contributions should be postponed or later modified in order to keep companies viable.

A lot of companies need this to meet payrolls in these difficult times, and this will prevent them having to freeze their benefits.

I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 7327, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 7327) to make technical corrections related to the Pension Protection Act of 2006, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BAUCUS. Mr. President, we are living through an unprecedented economic downturn. Over the past 15 months, the Dow Jones Industrial companies have lost more than one-third of their value. An end does not appear in sight.

This sharp market decline hurts more than just Wall Street. It hurts every American with a retirement plan. When the market drops, so do the assets in pension plans.

Over the past 15 months, because of the current financial crisis, retirement accounts have lost as much as $2 trillion in assets due to the current financial crisis. That is $2 trillion that disappeared from the retirement accounts of American workers. And that is $2 trillion that disappeared from the accounts of pension plans.

Congress must act now to protect individual retirement accounts and pension benefits and assets.

This bill provides relief for seniors age 70½ and older whom current law requires to take distributions from their retirement plans.

Individuals would have the option to keep their retirement savings where they are. We should not force them to take out huge portions of their savings when the market is down.

This bill also contains a number of provisions to help ease the strain on pension plans. And this bill would help to prevent the need for some plans to reduce benefits or make extraordinary funding contributions due to the market downturn.

If we fail to act and provide short-term funding relief, pension plans would be unable to afford their increased contributions. By one estimate, current law would require 350 of the Fortune 500 companies to contribute an extra $100 billion or more to their pension plans next year, even if the market rebounds. If these companies did this, they would reduce their investment spending by $60 to $70 billion next year. That is something that our economy cannot afford.

This bill provides relief for single-employer plans that fall below the set funding target percentage set in the Pension Protection Act of 2006.

And the bill provides analogous relief for multi-employer plans that are faced with significant underfunding due to market losses. This relief would allow them to temporarily freeze their current funding certification or extend the time period that they have to restore their funding levels.

The bill also helps prevent benefit restrictions for those single-employer plans that may be significantly underfunded next year due to the market downturn.

This bill also contains a number of critical technical amendments to the Pension Protection Act of 2006. The Pension Protection Act of 2006 arguably marks the most sweeping changes to the pension laws since the enactment of the Employee Retirement Income Security Act of 1974.

Like many complicated pieces of legislation, technical corrections to the law must be made.

Technical corrections to the law are often time sensitive. That is, many of them must be passed by both Houses of Congress before the effective date of the statute.

Many of the rules under the Pension Act were effective January 1, 2008. This means that the time for passing technical corrections has come and gone.

If we were not to act and pass these time-sensitive provisions now, the pension community and the Department of the Treasury—the agency tasked with interpreting the statute and providing the necessary details on how the new law works—would be placed in a very tough spot.

That is, the Department of the Treasury would not have the necessary corrections and clarifications of the original intent of the act to sufficiently issue the details necessary to allow the pension community to achieve proper compliance. This would not be fair to the pension community or the Treasury Department.

Failing to pass these technical corrections would therefore be irresponsible.

Here in the Senate, we passed the technical corrections contained in this act back in December 2007. We already said that these corrections are good pension policy.

Americans need real help from Congress to make sure that their retirement savings are safe and sound and available to them when they need it. This bill contains a number of provisions that would help to provide relief to individuals and pension plans and move the economy toward recovery.

Individuals and the pension community warned that individual retirement account holders and pension plan participants could be adversely affected without the provisions contained in this bill. Passing this pension package sends the right message to individuals, plan sponsors, and pension plan participants.

I thank my colleagues for helping to make passage of this bill possible today.

Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 7327) was ordered to a third reading, was read the third time, and passed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NOMINATION OF ERIC HOLDER

Mr. KYL. Mr. President, I want to speak for just a moment about the comments that Senator SPECTER made earlier about the process for considering the nomination of Eric Holder as Attorney General.

The Republican members of the Judiciary Committee have been seeking information and doing work to prepare for the hearing. But there is a great deal of information that is not yet available and a great deal of information that hasn't yet been reviewed, all to the point that it is going to take a little bit of time to prepare for the hearing in order to do it right. Of course, we want to do it right.

While there is absolutely no desire on anyone's part to slow a process down or filibuster or in any other way make it difficult for the orderly process to unfold for the confirmation of the nominee of the President, we do ask that we be accorded the same consideration that was given to others in this situation and that there be adequate time to confirm him. I see no reason, if he is qualified and if he is confirmed, that he could not take office very soon after the President himself takes office, perhaps as early as a week or two after that. So nobody is talking about a long delay, but we do need to have adequate time.

In that regard, since the chairman of the Judiciary Committee has indicated he would like to begin holding hearings on January 8, which is literally right after we begin the swearing in of the new Members and the beginning of the next session, there is not adequate time for the kinds of things that have to be done if that is the date that we meet. This has been conveyed to the chairman by Senator SPECTER. He has asked for a reasonable amount of time to get prepared. I hope that can be accommodated. It is of sufficient concern that several of us have indicated, through a letter to the chairman, that we are going to insist on having adequate time for the consideration of his nomination.

I remember the nomination of John Ashcroft who was a colleague of everyone here, a Senator from Missouri, when he was nominated to become the Attorney General; nevertheless, it took 4 days of hearings for the Senate to decide to confirm him. His hearings began on Tuesday, January 16. As I said, they lasted for 4 days. The chairman of the committee has, as I said, indicated that the Holder hearings would be scheduled for January 8, more than a week earlier. I don't think that is adequate for the things we have to do. Ashcroft was voted on by the full committee on January 30. He was confirmed on February 1. So that timing certainly would be totally appropriate for nominee Holder and would not in any way delay the administration with respect to the office of the Attorney General. In fact, irony of ironies, because Senator Ashcroft was not confirmed until February 1, Eric Holder himself, who was in charge at the end of the Clinton administration, served as Acting Attorney General at the beginning of the Bush administration. Senator SPECTER, when he was chairman, accommodated numerous requests for sufficient time on the part of the then-ranking Democrat, Senator LEAHY, on, for example, the nominees of Chief Justice Roberts and Justice Alito. I think reciprocation would be in order.

Right now, we don't even have Eric Holder's questionnaire or FBI background investigation, all of which are necessary to prepare for the hearing.

Senator SPECTER noted that we currently have 86 boxes of archived committee documents relating to Mr. Holder's tenure at the Justice Department to review. There are additional documents that have been sought from the Department of Justice and the Clinton library which would provide additional information that we will need to examine.

One might say this is a lot of work to do for a nominee. Bear in mind, this is the Attorney General of the United States, an individual who has some controversy in his past. I don't know whether this controversy is sufficient to suggest that he should not be confirmed, but that is what the investigation and hearings, of course, are all about. We are familiar with what these items are.

Mr. Holder was involved in the pardons of members of the FALN organization by President Clinton, the pardons of Marc Rich, Pincus Green, Susan Rosenberg, and Linda Sue Evans. He was also involved in a controversial raid in Miami by the Border Patrol action to take Elian Gonzales into custody. He was involved in death penalty approvals, rejections, or disputes. One that troubles me—and I want to get to the bottom of this—was the decision of the Department of Justice not to defend the power of Congress to enact a particular statute, 18 U.S.C 3501. There was Supreme Court litigation called Dickerson v. United States, including Department of Justice responses to Judiciary Committee inquiries on the subject and views of U.S. attorneys and Department advisory panels on the matter. The case involved challenging Miranda doctrine. Paul Cassell, a competent attorney, argued that case. The Justice Department, contrary to precedent and tradition, didn't defend the Government's position; that is to say, the Congress having passed a statute and defended the power of Congress to enact that statute.

I don't know whether any of those controversial matters are enough to reject the nominee, but they are well known, controversial, and I think we have an obligation to look into all of these matters. I am not alone. Richard Cohen wrote in the Washington Post that Eric Holder should not be the Attorney General. I don't know whether he is right or not, but the questions he raises need to be examined.

Glenn Greenwald wrote in the Salon magazine that Holder's involvement with the Rich pardon was ''substantial, continuous, and concerted, much, much more than 'peripheral,' '' which is the way Holder himself described it.

One final note. In addition to having plenty of time to review and prepare and review documents and the FBI interviews and background checks of Eric Holder and prepare for his hearings, we will want to have sufficient time also to carefully consider other top Department of Justice nominees, such as the Deputy Attorney General, Associate Attorney General, Solicitor General, and the heads of the Office of Legal Counsel, the Criminal Division, the Civil Rights Division, and the National Security Division.

I hope if we set the right precedent with the Attorney General himself, these other matters will be considered in due time and we won't have to argue each time there is an insufficient opportunity to conduct the kind of examination that would be necessary for positions as important as these.

So I hope our colleague, the chairman of the committee, will reconsider his initial decision to schedule the hearings on January 8. If we can move those back even a week, that would provide time for us to conduct the process properly. We are not asking for some outrageous delay just for the sake of delay. I hope he can accommodate us, and knowing of the views of the other members of the committee on the Republican side, that he would be willing to do so.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

Mr. WHITEHOUSE. Mr. President, a moment ago I had the honor of presiding before the distinguished Senator from Florida replaced me in the chair, and I was presiding during the time the distinguished Senator from Iowa, Mr. GRASSLEY, and the distinguished Senator from Arizona, Mr. KYL, came to the floor to discuss the timing of the nomination proceedings for the President-elect's candidate for Attorney General, Eric Holder. I had the chance to hear the points that they made, and I wish, just briefly, to respond to a few of them.

As the junior member of the Senate Judiciary Committee, I am certainly in no position to speak for the chairman. Obviously we heard Senator KYL ask that the timing be done on a reasonable basis, and I think Senator LEAHY, the very distinguished chairman of the Judiciary Committee, is nothing if not reasonable and has shown enormous reasonableness with the timing of all the nominees that have come before him. And I would expect this to be no different. But in evaluating the reasonableness of the schedule that the chairman has proposed, or, I should say, announced, it may be worth putting it into the context of the history of these sorts of nominees.

If you go all the way back to President Carter, for more than 30 years, whether the Senate was controlled by Republicans or Democrats, or the President was a Republican or a Democrat, we have had nominees for Attorney General come through the process. And throughout that long span of time, the average time between the announcement by the President of his choice for Attorney General and the nomination hearing, the average amount of time has been 29 days. And the average amount of time until a committee vote has been 37 days.

So that is the background. If you average over 30 years, from the announcement, 29 days to the hearing, 37 days to the vote. The schedule that Chairman LEAHY has proposed is 39 days to the hearing, and he hopes for 50 days to the vote.

So instead of the average that it has been over 30 years of 29 days, the Republicans have 10 extra days beyond the average to do the work that they assert that they need to do, and the vote may not come for 50 days, which is 11 days longer than the average.

I think everyone in this body understands the importance of a new President having his new Attorney General in place quickly. The President is going to be sworn in on January 20, and I think it is in all our interests as Americans to make sure that his choice is honored in a reasonable timeframe so that when the President takes office, he has an intact team. Certainly with the Attorney General as such an important part of the President's national security team in this time of national security concerns, he should have an intact team.

And so it seems to me that the average is a pretty reasonable place to start, and when the chairman has given an extra 10 days beyond the average just to the beginning of hearings, and hopefully an extra 13 days beyond the average for the vote, it's a pretty good signal that the chairman is being very reasonable about this.

Most recently, some of the Attorneys General whom we have seen, Attorney General Mukasey had a period of 30 days from his nomination to the start of the hearings. That was at President Bush's request. Remember, he indicated that he wanted to get him in place soon. The Department was in grave distress and we needed to act quickly. We acted in 30 days. We are acting here in 39 days, more than was given for Attorney General Mukasey. The vote hopefully will be the same as for Attorney General Mukasey: 50 days from the announcement to the vote.

It doesn't sound unreasonable. Nobody said it was unreasonable when Attorney General Mukasey was put through that schedule. I don't see how it can be unreasonable that Eric Holder should have a more generous schedule, and somehow that is no longer reasonable.

For Attorney General Ashcroft, it was 25 days to the hearing instead of 39; 39 days to the vote instead of the hoped-for 50. For Attorney General Reno, 26 days to the hearing instead of 39 days; 27 days to the vote instead of the hoped-for 50. Nearly twice as much time as for Attorney General Reno.

So I think the point is pretty clear. It is the tradition and the history of

this body to honor the President's request to act quickly, and in terms of the reasonableness of the schedule that Chairman LEAHY has proposed, he has proposed a schedule that is on the generous side of the average and of recent history.

With respect to the concern that there is a lot to look at in Eric Holder's history, well, every lawyer who is experienced and active enough in the profession to be a candidate to be Attorney General of the United States has got a long history to look at. That is a given. That is a constant. That is not something that is different about Eric Holder than about any of his predecessors.

Indeed, if anything, the opposite concern would be justified, which is that we have already had a lot of time to look at Eric Holder. First of all, he has an astonishingly distinguished record to be Attorney General. It is remarkable—his personal story, his career. It is all spectacular, truly. But specific to the question of nomination, this is a lawyer who came right after law school to the Department of Justice and served as a prosecutor for a decade prosecuting public corruption cases. So he had to be cleared by the FBI to come in as a Department of Justice attorney, and he served there for all those 10 years. That is all a matter of clear public record. Everybody has had a chance to look at that forever.

The next thing that happened, in 1988, Eric Holder was nominated by President Ronald Reagan to the bench to serve as Superior Court judge in Washington, DC. Again, he was confirmed by the Senate. We had a full look of everything up to 1988.

After his service on the bench, Eric Holder was nominated by President Clinton to serve as the United States Attorney for the District of Columbia. United States Attorney Holder and I were colleagues; me in Rhode Island, him down in DC. I went through that process of nomination and confirmation. It is exhaustive. It was done for him. He was confirmed at that time. So as of the date he was appointed United States Attorney for the District of Columbia, we had done a complete Senate look of his record to that point.

And that wasn't the last time. In 1997, President Clinton nominated United States Attorney Holder to serve as the Deputy Attorney General of the United States, Attorney General Reno's No. 2 in that department. And he was then confirmed by this body, the Senate, unanimously. And, again, we had that full record of his before us at that time.

So this is a guy who has been the subject of very public attention as a public official, the Deputy Attorney General. There isn't a whole lot that one does as Deputy Attorney General that isn't available to the public, that isn't in the news media. This is not somebody who has come out of nowhere and who has a great, vast mysterious past history that we need to have a look at. Indeed, this body has had three looks at him, confirmed him three separate times. The most recent time as late as 1997, unanimously. So I think the notion that—with only 1997 to now to look through, a period of a mere decade—the idea that he is being shoved unreasonably rapidly through the process, when he is substantially slower than the average, simply doesn't hold water.

And I would urge my Republican colleagues—again, they can have discussions with the chairman that obviously are at a rank higher than mine—but I would urge my colleagues to consider their views in that context: in the context of a spectacularly qualified individual who has thrice been confirmed by this body, as recently as 1997, and who is being given more time for scrutiny than the average or the recent Bush appointees, and in an environment in which I think we can all agree that after the Bush management of the Department of Justice, we badly need a new Attorney General in there and soon.

So with those observations I will yield the floor. I thank my colleagues for waiting while I finished my remarks. I see the distinguished Senator from Oklahoma on the other side of the Chamber and I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. I ask to speak in morning business.

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

Mr. COBURN. Mr. President, I appreciate my colleague and his informed words. Much of what he has stated I agree with, but there is a significant difference. No. 1 is I was not in the Senate when Mr. Holder was confirmed. Given the facts that played out associated with pardons that President Clinton had, the look needs to be refreshed without any question because there is no question that Mr. Holder erred in his judgment and has essentially said so, in association with one Mr. Marc Rich, a fugitive.

I do not doubt Mr. Holder has a distinguished record. He is well qualified for lots of areas. I do not think it ought to be on the floor that we debate whether we have a hearing. But I can tell you that the information we have requested, both from the Clinton libraries and others, will not be available to us to peruse and to study. I may in fact in the long term end up voting for Mr. Holder, but I am not about to do anything less than a very thorough job.

I also remind my colleagues I was the first Republican Senator in the midst of the committee to call for the resignation of Attorney General Gonzales—rightly so. The position of Attorney General, although it is appointed by the President, is very different than all the rest of the appointments because he is for all of us, every citizen in this country, the chief law enforcement officer of this land. His loyalty is not to the President. His loyalty has to be to the Constitution. It has to be to the responsible bodies that guide this country, although if we in fact have hearings early, we will have to have additional hearings. We will not allow a vote to occur until we have thoroughly, to each member of the Judiciary Committee's satisfaction, had the record examined and had the questions answered that are going to need to be answered with regard to some of the events that have taken place late in the Clinton administration.

That is not to cast any aspersions on Mr. Holder. I think he is a fine man. But judgment is the key thing that is most important and there is a red flag. So if it is insisted that we go early, earlier than we are prepared so we can truly ask the questions we think the country would need us to ask, then I think we will have a difficult time ever moving that nomination.

That should not be the case. The fact is this gentleman deserves the best, the most thorough opportunity to explain himself in a way where people are asking proper questions, not improper questions. More important, the American people deserve for us to do our job. That means we have to be very well briefed, very well studied on the questions and circumstances about which we will apply them.

Mr. WHITEHOUSE. Will the Senator yield for a question?

Mr. COBURN. I will be happy to in a moment.

I have given positive comments to the press on Mr. Holder, so I am not necessarily someone in opposition. But I can tell you I am in opposition to not being in a position to do my job. It is going to be impossible, and I will tell my colleague that, with the schedule that has been set forth. I will not be able to be prepared at the time. I have one staff lawyer. For us to go through everything to my satisfaction, for me to fulfill my oath, that is not a possibility between now and January 9.

The other thing I would say is much of the information we have requested is not even going to be available to us until January 6. So it would be terrible to start the next Congress off having a fight about a fight. My hope is we can come to a compromise so we all feel very well prepared.

There is no intent to delay Mr. Holder's nomination. There is every intent to make sure we are prepared to thoroughly vet his qualifications of independence and judgment. It is not his qualifications as to whether he has the capability to fulfill the role. It is whether he will demonstrate the independence and the judgment with which to fulfill it.

As my colleague knows—he was at the hearing when I asked the Attorney General to resign—I am not a partisan. The President-elect who nominated this man I have a great deal of respect for. But I am going to do my job. If it means holding up a nomination until I get all the answers, then that is what I

will do. So there is no reason for us to do that by not accommodating the ranking member on this committee and setting the schedule with which the minority on that committee are not prepared to be prepared to answer that.

With that, I am happy to yield to my colleague.

Mr. WHITEHOUSE. I appreciate that very much. I thank the Senator from Oklahoma for his courtesy for yielding.

I wanted to make sure the distinguished Senator was not suggesting that when the Senate allowed 26 days between Attorney General Reno's announcement and her nomination hearing, or allowed 25 days between Attorney General Ashcroft's announcement and his nomination hearing, or allowed 30 days between Attorney General Mukasey's announcement and his nomination hearing that the Senate was then underprepared or had not done its job in evaluating, or didn't have enough time to evaluate those candidates. I think they probably did. They appeared to going forward. By comparison, the 39 days——

Mr. COBURN. Reclaiming my time——

Mr. WHITEHOUSE. If I could finish the question——

Mr. COBURN. I suggest we did a poor job with Attorney General Gonzales, that is No. 1. No. 2, I was not here then so I don't know whether we did or did not. Mukasey—the difference that would lie is there is a large red flag on one or two specific actions of this gentleman as he acted as assistant Attorney General. That requires good scrutiny.

I assure my colleague that does not mean, and I think he knows this—I have not made a decision on this gentleman and I will not until we have gone through the hearing process. As I have said to the press, I am generally inclined to think he is very well qualified for this. But the question of judgment will require a lot of research on associated issues that have been outlined here.

So, to me, it is not a game I am playing. I think my colleagues in the Senate know I work very hard to stay informed and up to detail on every issue that is before us. I would say to my colleague, to me, I don't care what the time was ever. What I care about is do we do it right so we do not have a repeat.

I am sure my colleague knows he doesn't want us to have a repeat of making a mistake and not thoroughly vetting someone to the degree we should.

My hope is the Judiciary Committee in the next Congress operates very smoothly, that we stand on the principles that we spoke about as we went through this last year, and that we do not see the process of trying to slow down judicial appointments because it is a partisan issue.

He has my pledge that will never be anything I will pertain to or participate in. If somebody is qualified and they are this President's nominee and they are qualified after going through the Judiciary Committee and I believe they should be voted on, I intend to vote for them and not hold them up. But I think this is a very different instance. There are two specific problems that have to be very well vetted.

From what we have seen so far, the vast majority and minority have not met Mr. Holder. We are going to be asked to meet with him on the day before the committee hearing so we will not have had the time even after we meet with him to be able to cross-check what we have asked him against what facts we know because we will not have all the facts in, because we will not even have all the records from the Clinton library at that time.

I suggest we ought to start it off in more of a spirit of cooperation. My ranking member is of the learned opinion for the years that he has been here, and he is a proven expert in the law, that we need more time. We hope that request would be honored.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. I wanted, while the Senator from Oklahoma is still on the floor, to let him know I appreciate his concern and I am grateful for his kind words. I would hope the one or two red flags that he has mentioned are not such as to justify necessarily extending the period between nomination and confirmation hearings more than 2 weeks beyond what the Senate gave for other nominees such as Attorney General Thornburgh, Attorney General Barr—almost 2 weeks for Attorney General Reno, 2 weeks longer than for Attorney General Ashcroft, 1 day short of 2 weeks longer than for Attorney General Meese. Some of these people have some red flags too, but the Senate was able to do its job timely and I hope we will do so again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

EXTENSION OF MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that we extend morning business until 7:30.

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

The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I will share a few remarks on the matter before us. I was pleased to support Mr. Holder when he was nominated to be the Deputy Attorney General. He came as a Superior Court Judge in DC, and as a U.S. attorney. I thought he had many of the gifts and graces that would be appropriate for a Clinton deputy. He might not have been my top choice, but I thought he had a good background and I supported that. I have considered him a friend. I tried to be supportive of him throughout his tenure.

But I have to say there are some problems that are going to have to be dealt with. I went through the very painful process of Attorney General Gonzales and the difficulties he had. It was very painful for me. I am not sure he was treated fairly, to tell you the truth. But it came to a point where I think he concluded, and maybe everybody concluded, it was best for him to step down as Attorney General. He wanted to do the right thing, I believe, but made some errors. It damaged the Department.

I spent 15 years in the Department of Justice. I was an Assistant U.S. attorney for 2½ years and U.S. attorney for 12. That is a pretty long time; the biggest part of my professional career, for sure.

I love the Department of Justice. I believe it is very important that we have leaders committed to following the law regardless of position or power or influence; that the Attorney General should set the example. When I was there they did and there was no doubt about it. We were encouraged to do the right thing. If you took political heat, if you were right, the Attorney General would back you up, no matter what politician might call or what influential contributor or friend might try to intervene. You were expected to do your duty. That is the way I trained my assistants and that is the way I was expected to perform.

So I have no more grim prospect in mind, in the beginning of next year, than to have to go through a contentious hearing for the Attorney General of the United States. As I said, I have had nothing but personal affection for Eric Holder.

I want to make a couple of points. First, I believe Senator SPECTER is justified in asking that this hearing not start so soon. President-elect Obama is not in office. He will not be President. President-elect Obama will not be President at that time. He is talking about starting it on January 8 and that is very early. Members of the committee have sought a bunch of documents. I am not sure they are entitled to all of those documents, but many of them are public record documents that are quite appropriate to be requested. These members have requested those documents and they need to be looked at because there are some questions here that are going to have to be examined.

I note Attorney General Griffin Bell, who is one of the great Attorney Generals ever to serve in this country, serving under President Carter, that his hearings lasted 6 days.

John Ashcroft, a member of the Judiciary Committee, one of our own, and I believe a man of great integrity and commitment to the law, had 4 days and my colleagues on the other side had 23 outside witnesses testify in an effort to try and find something to complain about. Basically, they did not have

anything to say of importance, and he was confirmed.

But a confirmation hearing is not a coronation, particularly when there are questions out there that need to be conducted in the right way. I think, first, that Senator SPECTER is well within propriety and collegiality to ask that we not start this hearing so soon. Second, we need to be sure there is enough time set aside that it can be fairly discussed. And I will not go into the allegations that are out there, but I wish to say that not rushing this nomination through is not some sort of partisan attack, but instead a duty that must be performed.

Let me say that commentators and newspapers across the spectrum have raised questions about the nominee. The Senate has been called upon to do its job and ask the kinds of questions that need to be asked and clear the air on some of these allegations. And I hope Mr. Holder is able to do so.

The New York Times, a strong supporter of President-elect Obama, more and more known to be a liberal newspaper, said this recently:

> Mr. Holder . . . must answer serious questions before the Senate votes on his confirmation.

They had an editorial on this subject and seemed to be troubled by the nomination and flatly stated that we should look at that seriously.

The Wall Street Journal said this:

> For a politicized Justice Department, none can compare to the Clinton Administration's, and the role that Mr. Holder played in it deserves the fullest airing before he is given the opportunity to return.

To return—he was Deputy Attorney General under President Clinton, the second in command in the Department of Justice.

Richard Cohen from Mr. Holder's hometown paper, the Washington Post. Mr. Cohen, who I think it is fair to say is a liberal columnist, certainly not a conservative, I think probably recognized as a Democrat, had some strong words. This is what Mr. Cohen, a longtime columnist, wrote in the Washington Post:

> Holder was involved, passively or not, in just the sort of inside-the-Beltway influence peddling that Barack Obama was elected to end. He is not one of Obama's loathed lobbyists; was merely their instrument—a good man, certainly, who just as certainly did a bad thing. Maybe he deserves an administration job, just not the one he's getting.

Well, in October of last year, before the election and after Attorney General Gonzales was forced to resign because really he did not manage his Department well—I think little has shown that he had a malicious intent, but he was forced to resign, and the chairman and the ranking member, Chairman LEAHY, the Democrat, and the ranking Republican, Senator SPECTER, published a joint op-ed in the Politico newspaper. They made clear that they expected the next nominee to be independent of political influence and loyal to the rule of law, and the Department of Justice personnel.

They said this:

> The attorney general must hold everyone, no matter how powerful, accountable to the law. Any nominee must have a visceral commitment to pursuing and achieving justice, and a record of doing just that.

They went on to say:

> Finally, the attorney general must be someone who deeply appreciates and respects the work and commitment of the thousands of men and women who work in the branches and divisions of the Department of Justice day in and day out, without regard to politics or ideology, doing their best to enforce the law and promote justice.

Well, I agree with that. So I would hope that in the process going forward, that we do take the time to analyze some of these allegations and dig into why Mr. Cohen, or the New York Times or the Wall Street Journal has expressed serious reservations about this most important nominee.

The Marc Rich pardon—let me tell you why that is troubling to me as a longtime U.S. attorney. Very few people obtain pardons. That is just the way it is. Thousands apply. I have a bunch of them who write me right now, and they want me to help them get their pardon. Little people, who committed small drug crimes; maybe forged a check; maybe did something that violated Federal law in some fashion, are convicted and charged, and they do not get pardons. In fact, the process is set up with a pardon attorney. They have to complete their time in prison, they have to complete their parole, and only after a period of time of good behavior, only after that does a pardon attorney even consider their application for a pardon. But the President of the United States is constitutionally empowered

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

Mr. SESSIONS. Mr. President, I ask unanimous consent for 1 additional minute.

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

Mr. SESSIONS. So the President is constitutionally empowered to do the pardon.

So in the instance of Marc Rich, this was a major fraud case. He was indicted—one of the largest fraud cases in the country. He was a fugitive. He never reported and answered the indictment against him, as I understand. He was a fugitive, at least, and did not come and show up for trial. For some reason, over the strong objections of the prosecutor involved in the case, the President of the United States, with a positive recommendation from then-Deputy Attorney General Holder, granted that pardon. Of course, we know that through some method, Marc Rich—he, or people close to him, had been a very substantial contributor to matters of importance to the Clintons, to President Clinton personally. It was not a good deal. That was not a good deal. It was wrong. And every little person who has asked for a pardon and did not get it and deserved it 99 times more than Marc Rich did has a right to be offended. The rule of law and the respect for the Department of Justice was definitely lowered by that act. I wish Deputy Attorney General Holder had done the right thing, which was tell President Clinton: President Clinton, you cannot do this, and if you do this, my resignation will be on your desk. I cannot serve in an administration that would issue this pardon.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. I do not know Eric Holder, whom President-elect Barack Obama has nominated to serve as our next Attorney General. I had an interesting conversation with one of the topmost senior people within the Department of Justice, serving in the current administration, who described the nomination as ''a brilliant choice.'' So we will find out whether it was.

Before I came here, I served for 8 years as Governor. At one time, I was State treasurer, as my colleague, the Presiding Officer, was, both treasurer and insurance commissioner for the State of Florida. I served on the Board of Pardons as State treasurer for 6 years and then later on as Governor for another 8 years to consider the recommendations of the Board of Pardons as to whether people should have a sentence commuted or whether they should be pardoned for some crime they had committed. I always got advice from our legal counsel, got advice from the Board of Pardons itself, but in the end the buck stopped with me as the Governor, and I made the decision. Whether it was well received or not, I never blamed my counsel for the advice he or she had given me. At the end of the day, I think that is probably the case at the Federal level as well.

But we look forward to receiving the nomination and having a full hearing, a fair hearing so that this nominee can defend himself, present his case and his credentials to us. I hope what the senior Department of Justice official said to me about this nomination, that it was a brilliant choice, will indeed prove to be the case.

AUTOMOBILE INDUSTRY LOAN

Mr. CARPER. Mr. President, what I want to do is take the next 8 or 9 minutes to talk about the issue we are waiting for, waiting to address here hopefully later this evening, and the issue is whether we are going to provide—not a grant, not a gift, not a bailout to two auto companies, GM and Chrysler, but whether we are going to provide them a loan.

Some of you recall 28 years ago when Chrysler was in difficult straits and their CEO, Lee Iacocca, called on the Federal Government to provide a loan. We did not do that; we provided a loan guarantee. Chrysler made a lot of changes within the company to reduce their costs, to make them a low-cost provider of vehicles, and they came back to health. The loan was repaid. Federal taxpayers actually made

money, about $300 million on the deal, because we had taken—in return for taking on the risk of making that loan, we got warrants, and we converted those warrants into stock, which Treasury sold and made about $300 million.

Today, I think the thing that has been dragging this process down is the question of, as we think about providing a loan to Chrysler and a loan to General Motors, what can we do to make sure that within that company—labor, management, bondholders, lenders, dealers—how do we best ensure that they are going to make the further sacrifices, shared sacrifices, to make GM and Chrysler a lower-cost competitor, so that when they emerge from this process and begin operating with these loans, how can we make sure they will be successful, not just for a couple of months but how are we going to be encouraged that they will be successful for years—actually, for decades, as Chrysler was subsequent to our 1980 involvement.

The two positions that we are looking at—one is a negotiated deal by the White House and by Chairman DODD and others here in the Senate that says we want to put in place a car czar—sort of like a trustee, if you will, almost like a bankruptcy trustee—whose job it would be to work with the relevant stakeholders, folks I already mentioned—labor, management, lenders, bondholders, dealers and others—to ensure that they make the kinds of sacrifices and reductions that will lead to making GM and Chrysler more vibrant, more competitive when the economy recovers and people start buying cars, trucks, and vans again. So on the one hand, that is what the administration has proposed and what Senator DODD and others have negotiated with them.

On the other hand, we have some of our friends on the Republican side here in the Senate who believe it is appropriate for the Senate almost to sort of stipulate the conditions of this shared sacrifice, almost for the Senate to serve not exactly but kind of like the bankruptcy judge or almost to be the car czar itself and to put those changes in legislative language.

So those are sort of the two positions where we are, and we have been sort of in a logjam for much of the day. I am encouraged that there is still good will on both sides, and a lot of folks have been involved in these negotiations. Hopefully, we are finally coming closer to some consensus, and not one where we actually have the Congress playing the role of bankruptcy judge but we do take some steps to better ensure that the additional cost savings that are needed are realized so that these companies will be successful for a long period of time.

I rode down on the train today. Before I got on the train, I ran into somebody. Like our Presiding Officer, I like to work out almost every day. I stopped off at the central YMCA in Wilmington. While I was there, this one fellow who had just bought a Chevrolet came up to me.

He said: Tell me that if you all are going to do something, I will still have a dealer to take my car to to have it serviced and for the warranty to be good.

I said: There is nothing I can promise you for sure, but we don't want to just walk away from the industry and see these folks go down.

But I am convinced there are a lot of people who, frankly, would like to drive a car, truck, or van, and they might want to buy a product from Ford, Chrysler, or GM. Before they do that, they want to make sure the dealer and the company will be around for a while, for however long they will own their vehicle, so if they do have a problem and it needs warranty work they will get that; if they have a problem in the years ahead and they need parts, they can get them; if they need service, they will be able to get that as well. That uncertainty is keeping people from buying vehicles.

The other factor is the captive financing arms of the car companies—GMAC, Chrysler Financial, and Ford Financial. They not only help provide people who want to buy cars with loans to enable them to buy their vehicles, they also help finance dealer inventory. If a dealer wants to finance inventory, they have to get the money from someplace. Sometimes they can get it from the local banks, sometimes they can't. Sometimes they get that financing from the captive finance vehicle of each of the auto companies.

The captive financing arm also will make loans and then they will take those loans and bundle them and securitize them and sell them around the country and around the world to provide more money to be used to either finance auto loans or, in some cases, finance the inventory for dealers to put on their parking lots and showrooms. As we go through this, one of the things we have to do is not only hopefully work out this deal so we figure out who is going to play the role of the Federal bankruptcy judge with respect to these two companies, without going into bankruptcy, so we can make sure these companies will be around and provide warranty work and parts and service, but how do we make sure the captive financing arms start working again as they are supposed to.

We have a lot of banks that haven't been providing the kind of loans to families, small businesses for working capital, for kids to go to college and people to buy homes and cars. We have been working on that for a couple months. Liquidity is freeing up a little bit. But as we deal with that and with the more immediate issue of the near-term survival of Ford and Chrysler and GM, it is important that we also keep in mind the captive finance arms and how we can make sure they are in a position, like banks being able to lend money, the financial arms of the car companies are able to lend money as well. That may be a battle for another day but not very far down the line.

I am encouraged that some progress is being made. I wanted to express my thanks for the people of Delaware. We have a Chrysler plant in my State that has been there for about 60 years. We make the SUVs for Chrysler. We build the Dodge Durangos and the Chrysler Aspens. They were selected as the best SUVs in terms of quality by JD Powers. That plant will be closed in 20 days, a plant that I have worked to keep open for 28 years. It is painful for me and for the people who have worked there, who still work there. But it is going to happen. We have a GM plant not far from there in Wilmington where we make all the Saturn Skys. We not only sell those in this country, we sell them around the world. We export them to South Korea. We sell the Saturn Sky in about 15 or so countries in Europe. It is a very good vehicle. We are proud of the work they do. I have believed over the years in making sure these plants stay alive and make a good product. They do a great job on quality, productivity, and labor-management relations. We are very proud of both plants and their workforce, management and labor people, and the record they have achieved.

We want to make sure our Chrysler plant, as they are shut down and a lot of people are going to be losing jobs, we want to make sure the folks who work there, the people who build the Durangos and Aspens, we think those are hands that can also build windmill turbines for the windmill farm we will put off the coast of Rehobeth Beach starting a year or two from now. Those are hands that can build solar energy panels and can build homes with geothermal heating and cooling, can build a new nuclear powerplant on the other side of the Delaware River. There is plenty they can do in terms of providing clean energy, in terms of providing us with a reduction in fossil fuels, and to enable us to build products that we can sell around the world to reduce our trade deficit. I think it is important, as we face a very sad closure of our Chrysler plant in Newark, that we have in place not just in Newark but in all kinds of plants around the country training programs that will help people who have a good work record. They want to be gainfully employed. They have good skills. Let's make sure they have the opportunity to find jobs where they can make a real contribution.

I see we are joined by the Senator from Utah who may or may not want to speak. He is approaching the Presiding Officer. It is always good to work with him. His presence always augers well for us doing something constructive. Keep up the good work.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SESSIONS. Mr. President, earlier in the week I pointed out that I believe the best way for the big three automakers to reorganize, come out lean and aggressive and competitive, was through the reorganization procedures in chapter 11 of the U.S. Bankruptcy Code. So many companies have taken advantage of it over the years. It is the regular order, as we say in the Senate. It is what happens when companies are not able to meet all of their debt obligations and payments. When this happens they seek protection under chapter 11.

The bankruptcy court has a desire that those companies be successful; that they continue to operate; that people are not laid off; and that the business is not liquidated as it would be if it had filed under chapter 7 of bankruptcy code. In chapter 11, every effort is made to help the company to survive; to eliminate the burdens and legacy costs or other problems they have that are pulling them down, making them noncompetitive.

This week, on December 9, 2008, the Heritage Foundation published a document called ''Bankruptcy Is Best: Responding to Automakers' Arguments Against Chapter 11 Restructuring.'' Mr. Andrew Grossman, a senior legal policy analyst at the Heritage Foundation, writes:

> Though a bailout—

That is the Federal Government just giving money to the corporations—

> may be better for the automakers' current executives and shareholders, restructuring in bankruptcy remains the best choice for the automakers' continued viability and future success.

In other words, a bankruptcy restructuring and reorganization will be in the best interest for American workers, employees and people who want to buy American automobiles.

We have two cars in my home in Mobile, both of them are pushing 100,000 miles, and both of them are American big three automobiles. I am very happy with them. A lot of people want these automobiles. But the best way to keep the company going, experts say, is through this established legal procedure of bankruptcy, not some special bailout. We have heard this argument: Bankruptcy would lead to failure and millions of jobs lost. The Heritage Foundation responds: ''Bankruptcy protection actually prevents failure.''

Mr. Grossman notes that when a person files bankruptcy, ''it does not mean that the business and its assets will 'fail'—that is, cease operations. Many companies, including the bulk of the airline industry following 9/11, have entered bankruptcy, reorganized under its protection, and then emerged as stronger, sustainable businesses.''

That is so true and it is so important to say. Grossman and the Heritage Foundation went on to note:

> Once a company has filed for bankruptcy, it receives an automatic stay and may suspend payment of all debts, giving it breathing room to take stock of its assets and situation.

Once you file bankruptcy, everybody knows about bankruptcy. I am not an expert, but I have been involved with it off and on. I helped write the 2005 bankruptcy reform bill. But in bankruptcy, every lawsuit, every claim against your money is stayed. You don't have to pay them off. The judge takes over and makes sure that payments are done in a way that is fair to everyone concerned.

The next argument: Automobile makers are too complex for bankruptcy. The Heritage Foundation report says:

> Fact: The bankruptcy process is designed to confront and resolve complex problems and has successfully done so many times in the past.

By chance, one of Alabama's best bankruptcy lawyers was in my office just yesterday. I have known him and respected him. He is totally independent of the circumstance.

I asked him: What do you think?

He said: Chapter 11 is perfect for these companies. It is exactly what is needed. It is set up to handle these kind of circumstances. People keep confusing reorganization under chapter 11, like Delta Airlines went through, with liquidation under chapter 7 bankruptcy where there is no hope of saving the company. They are saying: If you go into bankruptcy, it means the company is doomed. That is not so.

As to the complexity of the matter, the Heritage Foundation report says: ''It is a universal feature of bankruptcy law that creditors and other stakeholders''—that is, creditors, people who are claiming money from GM, Ford, or Chrysler—that they can ''be forced to accept concessions that are necessary to maximize the common pool. Thus some debtors may see their claims transformed into equities stakes''—that is, stock in the company—''so that a business, free of debt, can operate profitably and sustainably. Others may receive pennies on the dollar. Collective bargaining agreements may, as described further below, be modified to put costs in line with industry norms, and other contracts may be rejected. In contrast, a bailout''—that is what we are talking about, giving the automakers money—''fails entirely to address the complexity of the automakers' problems. Unlike the finely honed tools of bankruptcy reorganization, a bailout fails to provide any mechanism (other than money) to restructure debt, repudiate contracts, or renegotiate labor agreements. In short, bankruptcy is a solution to the complexity.''

The report goes on to say:

> And these features are most valuable in large and complex cases that would be impossible otherwise.

The Heritage report goes on to note that chapter 11 organizations have included energy and finance giant Conseco; Delta Airlines; the parent corporation of United Airlines; telecom giant WorldCom, now MCI; Texaco; Adelphia Communications; and Global Crossing. All those have been in bankruptcy and have come out reorganized.

The report continues:

> Despite this enormous complexity, all of these businesses were able to reorganize under the protection of the bankruptcy process and emerge as viable, competitive businesses.

And these companies did all of this without, let me add, a penny of Government money being put into them.

What about the argument that you could not renegotiate labor agreements in bankruptcy? The Heritage Foundation and Mr. Grossman found this:

> Chapter 11 provides a straightforward mechanism, unavailable outside of bankruptcy, to modify collective bargaining agreements to adapt to economic realities.

The report sets forth some of the additional protections that labor has and additional proofs that have to be made to modify a labor contract, but the evidence is taken, and labor contracts can be modified to help make the business viable. But do not miss the fact that the law provides workers a very fair chance to defend their legitimate interests.

The report concludes on this question:

> Thus, the bankruptcy judge has significant discretion and power to push the parties toward an agreement that is mutually acceptable, conforms to economic realities, and ensures that the business is able to return to profitability.

They go on and note about the bailout, however:

> A bailout, in contrast, would likely provide no new legal authority to achieve this result.

Now, there is an argument being made that restructuring in bankruptcy would not work because sufficient debtor-in-possession financing is not available for an automaker in the current economic climate. Let me explain how debtor-in-possession financing works. If a company were to file for chapter 11 protection, then a judge takes control, has hearings and listens to testimony, keep in mind there is a stay in place that holds off the debtors making claims for money, that judge then may find that for the company to survive, it may need to borrow more money. The court can induce a private lender to loan the corporation money, that is, financing a debtor who remains in possession. That lender then gets a priority over every other claim to the company because it is the money that keeps the company surviving.

I would say that were this scenario to play out, as I just described, I would be quite willing to consider legitimate assistance from the Federal Government in a way that would provide maximum protection to the taxpayer and would also provide a maximum opportunity for the company to be successful. That is the way the law provides for. That is the way every corporation I know of

that gets in trouble has to be handled. I do not see the advantage of providing one special industry billions and billions of dollars bailout when we know this $14 billion is just the first installment. One economist has predicted it would be $75 billion to $125 billion before we are through. So this minimal, legitimate government assistance as a provider of debtor-in-possession financing would be a better way to do it.

Proponents of chapter 11 for automobile companies include Luigi Zingales of the University of Chicago and Edward Altman of New York University's Stern School of Business. They explain how this government supported debtor-in-possession mechanism operates. They note that:

> This option would be superior to a nonbankruptcy bailout because it would provide greater protection (bankruptcy's ''super-priority'')—

To the person who puts in the money at the end to make the company viable—

> to taxpayers, would do more to force the automakers to reform their operations while providing them greater flexibility to do so, and would be more likely to succeed.

I know some ideas have been floated recently; that our distinguished colleague, Senator CORKER from Tennessee, has proposed that we may well be able to accomplish most of these things without going into bankruptcy. We are studying that. But his proposal has the hammer that if agreements are reached to modify and protect the companies from claimants, then they would be required to go into bankruptcy.

One of the problems of Congress trying to fix the problem and the automakers not going into bankruptcy is a constitutional problem. Bankruptcy courts modify in part and sometimes invalidate in part, and entirely, portions of contracts. That is a great power and the Constitution provides for this use of bankruptcy.

I am not sure we in Congress can pass a law that could invalidate contracts. I have argued we should go in that direction always, I hope my colleagues understand, under the belief that this is the regular order; this is the proper legal way for a company to reorganize itself and survive if it is in financial difficulties.

We need to quit giving special privileges where they are not needed. Such behavior ought to be kept to the most narrow, special benefits outside of the traditional free market principles that have made this country great. If we have to go around them or violate them or bend a bit because of the size and the number of people who might be involved, well, let's do so within our heritage as much as possible, within the rule of law as much as possible. I think that is the best way to do it.

So I wished to share my thoughts with my colleagues. I would urge them, if they are interested in the details, to look into the Web site of the Heritage Foundation to examine what this bankruptcy report study shows and why, according to their report: ''Bankruptcy Is Best.'' I believe it is.

I thank the Chair and also express my appreciation for what I understand to be some progress toward reaching a proposal we could vote on in this body that would be much better than the one that has originally been put forward by the Democratic leader and the White House. I do not think the President or the Democratic leader has it right. I think a lot of other Members of this body do not feel like they have it right. What we need to do is to do what we can to assist these companies through a very difficult period of time, to give them an opportunity to eliminate some of the excessive burden they have been carrying so that when they enter into the race to the competitive marketplace, they will be leaner and more efficient and more capable of being successful, more able to be competitive, and can restore their vigor and vitality.

We have to do that, and they have to get out from under some of these burdens. I personally think the best way to do that is through bankruptcy. It may be that some of the work Senator CORKER and others have worked on can get us there in a slightly different way. I am open to that thought and certainly am desirous of a conclusion that could gain bipartisan support.

I thank the Chair and yield the floor.

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

The PRESIDING OFFICER (Mr. SANDERS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

ORDER OF BUSINESS

Mr. REID. Mr. President, approximately 20 minutes ago the negotiation team broke up for purposes of having Senator CORKER, who has worked since 2:30 this morning on the compromise, see if we could get this legislation over the finish line. It is my understanding he is making a presentation to the Republican caucus as we speak, to see if they will accept his compromise.

It has been a difficult negotiation, principally conducted by Senators CORKER and DODD. Senator DURBIN has represented me in those meetings.

I am hopeful we can finish this matter tonight. I do not know what the odds are that the Republican caucus will accept the work done by Senator CORKER and others but we should know soon. I am sorry it is 8:30 at night and people have been here—I received a call from one Senator who has been here since early this morning and wishes to leave and come back tomorrow. There are other Senators who have flights early in the morning to go other places. They hope we could finish tonight. One of those other places is home. They have family waiting for them.

I wish I could be more dictatorial and say we are going to vote right now, but I do not have that ability. If everyone will be patient, we should know within a half hour or so if they can work something out.

We are ready to go. I think with rare exception the Democrats understand this is Christmas season, that there is a lot of hardship out there. People are losing their jobs, losing their homes, losing their cars, and losing their patience. We Democrats believe this Christmas season we do not need to pile on. If we are not able to work something out, 2.5 million people are going to be directly impacted and millions of others will be impacted. This is Christmastime and I hope we can give the American people a gift of hope that we are going to wind up with an automobile manufacturing industry that will be stronger and more reliable. Certainly that is our desire. We hope our friends on the other side of the aisle, the Republicans, will recognize the good work done by Senator CORKER and others and finish this matter tonight.

Mr. REED. Mr. President, I am dismayed by the turn of events that have occurred this evening.

Our Nation faces economic conditions not seen in decades. By preventing action tonight on a plan to give the auto industry a chance to turn itself around, the minority is playing with fire.

The jobs of countless workers, including thousands in Rhode Island, are on the line, at a time when we can ill afford more losses. Moreover, these companies going into bankruptcy could be far more costly to the federal government. And, as economist Mark Zandi testified before the Senate Banking Committee last week, if these companies are forced into bankruptcy proceedings, it would have a cataclysmic effect on our already fragile economy.

The bill that Chairman DODD and my other colleagues worked on diligently had the potential to give the industry a chance to put its house in order while preserving jobs and protecting the taxpayers. I regret we did not have a chance to proceed to this measure, engage in vigorous debate, and make a judgment on the merits.

Mr. McCAIN. Mr. President, I have been very vocal in my support of the U.S. auto industry and have gone on the record saying that we need to do whatever is necessary to help the auto industry become strong and economically viable. But we need to be realistic and fiscally responsible in our approach to the troubles facing this and other industries. I cannot support the proposal before us today. We simply cannot leave the American taxpayer with a tab of tens of billions of dollars without some serious concessions from the industry and some assurance of the domestic auto manufacturers' long-term viability, otherwise, we are just

throwing good taxpayer money after bad business decisions.

I have great faith in the skills, energy and ingenuity of the American auto worker. This crisis is not their fault. I am committed to making sure that U.S. auto workers are not left to fend for themselves. Ours is the finest workforce in the world, able to compete with anyone. I stand ready to ensure that Washington does its job so they can do theirs.

But simply throwing money at the industry is not the way to ensure its long-term viability or to help stabilize our economy. As we all have learned in the past few weeks, the domestic auto manufacturers are in much worse shape than we could even imagine, with one company, GM, announcing they may not survive through this year without Federal help. But why is it that Toyota sells approximately the same number of cars that GM does and is profitable?

Clearly, the automakers will need to change dramatically the way they do business if they hope to be on course for long-term profitability. Rather than seeking an unconditional handout from the taxpayer, industry leaders must first consider how they can restructure their business models in order to fix the problem themselves and build more competitive products—including changes in management, renegotiating labor agreements, and reorganizing under the bankruptcy process. And, they should have been doing so months, if not years, ago. And if the bankruptcy laws need to be changed, then the Congress should do that.

The automakers need to prove to Congress and the American people that they are serious about making the changes necessary to ensure their long-term success before they seek further assistance from the taxpayer. As noted Harvard University economics professor Martin Feldstein wrote: ''the goal of restructuring should not just be to require the companies to make cars that are fuel-efficient and more environmentally sound . . . although that can be included in the government's list of requirements. The goal should be to put companies on a course that will allow them to survive for the long term, producing cars and creating jobs.'' I fully agree with Professor Feldstein.

The auto industry executives, as well as many of my colleagues, have argued that bankruptcy is not an option. But given what we now know about their financial situation, why not? Shouldn't we be considering every option possible to allow these companies to restructure their operations so they can keep people employed? Chapter 11 bankruptcy was created precisely for the situation in which these automakers find themselves—where creditors' claims exceed a company's assets. It may be the best option. The executives leading these companies have an obligation to their shareholders and employees to weigh carefully that viable option.

After all, filing for bankruptcy forces a company to make some very difficult choices and the automakers would be no exception. The automakers would be forced to renegotiate collective bargaining agreements to make themselves more competitive, to eliminate some dealership networks and car models that are underperforming, and to make other difficult cost cutting decisions regarding real estate, management compensation, personnel, and even office supplies. It seems these companies may only make these difficult decisions if they file for bankruptcy.

Additionally, bankruptcy would allow the cost cutting process to proceed without any political interference from Congress or special interests. If Congress provides a bailout for these companies, there is no doubt that legislators will weigh in when the automakers attempt to renegotiate labor agreements, trim dealerships in a lawmaker's home State or eliminate a car model manufactured in a lawmaker's district. Bankruptcy will allow these decisions to be made purely based on financial considerations and under the supervision of a bankruptcy judge. Many corporations have filed for bankruptcy and emerged better equipped to serve consumers and face their competitors. Bankruptcy is not an option that should just be written off.

Now, I would like to mention some of my specific concerns about the pending proposal, negotiated by the Democrats and the White House.

My first concern I have already discussed, the fact that the taxpayers are asked to foot the bill upfront, almost as a first downpayment, without concessions or assurances of the industry's future viability.

Another troubling aspect of this bill rests with the so-called ''Car Czar.'' Will this individual have the authority to invalidate contracts legally entered into by these companies? What in this legislation would prevent lawsuits from being filed due to nullified contracts? What is to prevent the next President, or the one after that, from firing this car czar if he or she disagrees with what the car czar seeks to impose? And what in the bill gives the American people any assurances that the companies or the car czar won't enter into other obligations that ultimately cost taxpayers even more money?

I fully agree that if we are to going to provide a single taxpayer dollar to this industry there must be very strict oversight in order to protect the public's investment. Unfortunately, while this bill gives the President's designee some oversight authority, it has no real teeth. The person appointed by the President would have no real authority to insist on the fundamental changes necessary to promote the corporations' viability and protect the taxpayer's investment. If we are going to hand over billions and billions of taxpayer dollars, we should at least consider requiring Senate confirmation of an individual with proven business leadership skills who will serve for a defined period of time. This would remove the possibility of the designee falling victim to the political pressure often felt by those who serve at the pleasure of the President—allowing that person to make decisions based solely on the best interest of the taxpayer—not on political considerations.

Another area of concern for me surrounds what seems to me a lack of reality on the part of the domestic auto manufacturers. More and more Americans want to purchase energy-saving vehicles. Yet the domestic auto industry seems to be fighting tooth and nail against that reality. And if it does not wake up immediately, nothing Congress can do will help the industry survive. It needs to be competitive. It needs customers to buy its vehicles. And it won't have many customers if it doesn't take action to build vehicles with higher fuel efficiency standards that help our Nation end our crippling dependence on foreign oil.

Finally, the bill includes provisions wholly unrelated to the issue at hand, such as language authorizing a pay raise for U.S. judges. Why in the world is it necessary to address this issue in this bill? I am not questioning the merits of the provision—I am sure the overwhelming majority of our judges work very hard and deserve a raise—but such a provision has no business being addressed in this manner and at this time when so many are doing more with less. This authorization should be addressed in the proper way by the appropriate authorizing committee.

If we allow this $14 billion to be doled out to the automakers with so few conditions and no concessions—who comes next? And how long before they return seeking billions more? A recent editorial in the Washington Post noted that:

> the impending collapse of General Motors presents Congress and the President with a choice between two domino effects, both potentially damaging to the U.S. economy if the federal government does not lend GM money and the company goes bankrupt, the repercussions will spread throughout the country by way of the network of suppliers, dealers and local businesses that depend on GM and the other car manufacturers for their livelihoods. This could destroy hundreds of thousands of jobs when the economy can ill afford another shock. But if the federal government, frightened by these possibilities, gives GM just what it wants, it will be setting a precedent for even more multi-billion-dollar bailouts—of automakers and of other troubled companies. The closure of DHL's operation in Wilmington, Ohio, is costing 9,000 people their jobs; Circuit City's bankruptcy means about 7,800 layoffs. If Detroit and its relatively well-compensated workforce qualify for Federal aid, why not these firms and workers, too?

We need to be very careful here lest we slide down the slippery slope of a taxpayer funded bailout for every ailing business in America—large or small.

Let me be clear. I am very sympathetic to the plight of the auto industry. But the proposal before us seeks to hand over $14 billion to companies who have yet to tell the Congress and the American people—in any detail—how they plan to restructure their operations and become viable in the long-term. Their gross inaction to date causes me great pause. And that is why I cannot support the measure before us.

I am pleased to see that many are working hard to find an acceptable compromise. I am hopeful that we can reach a suitable agreement.

Mr. KOHL. Mr. President, this is not a proud moment in America's economic history. Our once proud automakers have come to Washington hat in hand asking for a loan with their future, and the future of their workers, at stake. In exchange for a Government loan they are willing to submit to intrusive Government oversight, surrender their executive perks, and give the American taxpayer a stake in any future profits. As a businessman I am stunned that it has come to this.

However, I am voting for the Auto Industry Financing and Restructuring Act because I want to see the American auto industry succeed. Under this bill, $15 billion would be provided to GM, Ford and Chrysler in short-term loans that will be paid back with interest. To avoid bankruptcy and emerge as stronger businesses, this plan requires the big three to submit long-term restructuring plans no later than March 31, 2009. If they do not then they will have their loans revoked and be plunged into bankruptcy. Just like other industries that are forced to restructure, the automakers and labor unions will need to make tough choices concerning benefits, wages and pensions to ensure their long-term viability.

As a businessman, I am concerned about a Government appointed ''car czar'' who would have oversight and direct involvement over the operations of the automakers. I am worried that no matter how badly managed Detroit has been so far, a Government bureaucrat is unlikely to do a better job. I hope that whoever is found to take this difficult job has the experience, drive, and business savvy to help turn around this struggling industry.

In the end I am supporting this bill because of the 46,000 well-paying jobs in Wisconsin that are tied to the auto industry. With the jobs report last week stating that the economy lost 533,000 jobs in November alone, we can't afford to put more Americans out of work. The Government has already begun to help Wall Street, now it is time to help Main Street. I am disappointed that we were not able to agree on a deal tonight. I am hopeful that a bipartisan solution can be reached before it is too late.

Mr. HATCH. Mr. President, one of the most renowned former Members of this legislative body once said ''Ask not what your country can do for you, but what you can do for your country.'' With bailout after bailout, asking what our country can do for failing companies seems to be the norm. Today, it appears that our Government has become the backstop to financing private companies to hope for long-term viability.

The biggest three U.S. automobile manufacturers, Chrysler, General Motors, and Ford, are asking Congress to provide a loan in order for them to weather a recession and give them time to restructure. What we need to decide is not whether we will assist, but how we will assist the troubled auto industry. While I believe there are already some measures in place to assist the automakers, it would be beneficial to examine whether these measures are sufficient. If these measures are insufficient, we should look to what can be done to change our system so that it benefits both the auto industry and the taxpayer.

Most Americans are asking how the big three found themselves in this mess. The big three are victims of a financial perfect storm. Our failing economy toppled an industry that was already facing stiff foreign competition, mounting legacy costs, government mandates, and poor management decisions.

The dramatic decline in automobile sales worldwide shows that the decline of the big three is not solely the result of poor management. All auto sales, both foreign and domestic, have declined significantly for 13 straight months. The sales rate last month was the worst in nearly 30 years, since October 1982. In November, sales declined at rate of 36.7 percent from the same month a year ago. It was also the worst month on record for Asian automakers.

Legacy costs primarily refer to a company's obligations from pervious years, such as costs the big three pay for health care and pensions under defined-benefit plans for current employees and retirees. Furthermore, the auto industry has been forced to pay union workers for shifts even when those workers are not working. It is estimated that the big three pay each hourly autoworker $70 an hour in wages and current and future benefits. In October 2005, a Detroit News article illustrated this burden.

''Ken Pool is making good money. On weekdays, he shows up at 7 a.m. at Ford Motor Co.'s Michigan Truck Plant, signs in, and then starts working—on a crossword puzzle. Pool hates the monotony, but the pay is good: more than $31 an hour, plus benefits.'' The article further explains that ''Ken Pool is one of more than 12,000 American autoworkers who, instead of installing windshields or bending sheet metal, spend their days counting the hours in a jobs bank set up by Detroit automakers and Delphi Corp. as part of an extraordinary job security agreement with the United Auto Workers union.''

While the United Auto Workers have conceded to temporarily suspending the job bank and delaying payments to their retirement and health care funds for current and future employees, these costs have already burdened the auto industry. It might be too little too late. We need to enact measures that will ensure that the unions can no longer create unreasonable mandates on our auto industry. We need to ensure that these burdens do not persist.

To overcome these burdens, the big three say they were already in the process of restructuring. Chrysler has eliminated 1.2 million units of capacity and reduced fixed costs by $2.4 billion. It has increased its manufacturing productivity by 32 percent over the past 7 years. General Motors has made substantial progress in narrowing the gap with foreign competition in quality, productivity, and fuel efficiency. In other markets, such as China, Latin America and Russia, GM has grown rapidly and outperformed the competition. Unfortunately, our failing economy has prevented these companies from reaping the benefits of their restructuring.

The normal rules of a free market economy dictate that if a company runs out of money, then the company must close its doors. We have already changed these rules by providing bankruptcy protection. In ancient Greece, a banker conducted business transactions on a bench. When the banker could no longer lend or meet his obligations, the banker would symbolically break his bench. A broken bench in Latin is referred to as ''bankus ruptus'', which is the origin for the word ''bankruptcy.''

It used to be that a person who became bankrupt and could no longer pay his debts was considered a criminal. In the United States, however, bankruptcy laws were established during harsh economic times when a mass amount of people could no longer pay their debts. Those who were willing to work toward repayment of debts would be allowed to cancel existing debts and be protected from creditors. In the 1980s, an escalating number of bankruptcies inundated our courts. A ''prepackaged bankruptcy'' was developed to allow companies and creditors to submit prenegotiated bankruptcy petitions to ensure a timely and cost-effective bankruptcy proceeding.

It appears that the big three auto manufacturers have severely cracked their bench if not already broken it. And now they are asking us to change the rules of a free market economy and go beyond the benefits of existing bankruptcy protections. They believe that a chapter 11 bankruptcy would worsen consumer confidence, thereby dooming them from the beginning.

I am fully aware of the impact our economy could face if the big three go bust. It will likely trigger catastrophic damage to the U.S. economy, precipitating failures among component and logistic suppliers, other domestic car manufacturers, raw material suppliers, technology and service providers, retailers and their suppliers. According

to a study by the Center for Automotive Research, an estimated 3 million Americans could find themselves jobless within a year of an auto manufacturer's collapse. We would also lose enormous improvements through research and development of advanced propulsion investments in support of greatly improved fuel efficiency, emissions reductions, and energy independence. It is essential that something must be done to halt this impact, but we need to do something carefully and something that will ensure the long-term viability of these companies.

I truly believe that providing unrestricted funding to the big three would only delay the inevitable. I believe that the only solution is to provide the resources to empower these companies to consolidate and restructure. The majority's proposal provides temporary funding to allow employees, retirees, trade unions, creditors, suppliers, automobile dealers, and shareholders to come up with a plan that would be reviewed by a President-appointed designee.

Upon review, the designee, or ''car czar,'' would determine whether the plan guarantees a viable long-term restructure, then the designee would recommend further funding. This process provides funding now and worries about viability later. While I am not a proponent of excessive government intervention, I believe that if we are going to provide any funding to the big three that it be conditioned upon reorganizing.

This is not an unprecedented event. The very same issue was being discussed by the Senate in 1979 about whether we should provide financial assistance to Chrysler. Nearly 30 years ago in December, I stood before this body and opposed providing loans to Chrysler. Back then, Chrysler faced tough foreign competition and harsh economic times. The Chrysler Corporation Loan Guarantee Act of 1979 provided $1.5 billion in guaranteed loans to Chrysler. However, that legislation required matching private funds.

If that amount were adjusted for inflation, it would equal more than $4 billion today, which ironically is what Chrysler and General Motors says they need to survive until next year. It is also, ironically, the same amount that GM spent in 2007 on health care benefits for retirees and active workers.

The bill passed in 1979 and Chrysler became profitable and paid back these loans 7 years early with $300 million in equity returns to the American taxpayers. So there is the possibility that a loan to the big three could become profitable for American taxpayers. But we should not throw caution to the wind. In the past 30 years, the Government has never provided a financial bailout to any company other than a financial institution besides the airline industry after 9/11 and Chrysler in 1979, both heavily unionized.

We need to move away from becoming a government of nationalizing failing companies toward a government that provides opportunities for success. We all agree that we want to see these companies prosper, but we disagree about how we believe this should be done. Under the majority proposal, we are essentially asking each and every American taxpayer to invest in the future of the big three without guaranteeing that they will survive past March of next year. This is a risky bet. I believe that we can reduce the risk of that bet enormously by requiring the big three to reorganize. Simply put, the majority does not provide enough assurances that the auto industry is committed to reducing costs. Furthermore, their proposal requires the auto manufactures to enter into a chapter 11 bankruptcy if their plan of long term viability is determined not to be sufficient. We all know this is a farce, because we all know that the next administration will prevent the necessity of filing for chapter 11 bankruptcy by giving them more money.

My proposal calls for allowing the auto manufacturers and the trade unions the opportunity to show the American people that they are committed to reducing costs before the Government gives them any loan. Specifically, it would require that any bridge loan amount would be conditioned upon the amount of cost reduction concessions agreed to by management and labor. In order to receive a temporary bridge loan, I believe that these groups need to hash out a sufficient plan to show that they can pay back any loan amount that we provide. The auto manufacturers have stated that time is of the essence and they need the money at the end of the year. If the auto manufacturers and unions are really committed toward reducing costs, I believe that they can agree to a temporary plan by the end of the year. Time should not be an obstacle for Congress and the American people. In addition, I propose that if the auto industry's plan is deemed insufficient that they should be forced into a binding arbitration to avoid the obstacles of chapter 11 bankruptcy.

It is hard for me to believe that the majority is really serious about providing a solid plan. Their leadership refuses to allow us to offer amendments and they have now added provisions aimed at providing relief to municipalities, something irrelevant to the issue before us.

Mr. President, we are entering the holiday season with our desire to assist the failing auto industry. While we all wanted to provide positive solutions, the most powerful deliberative body in the world is prohibited from deliberating one of the most pressing issues of our time. It is unfortunate that we cannot proceed in a collaborative manner.

Mr. WARNER. Mr. President, as I have mentioned, GM, Ford, and Chrysler have a long and heralded history in our country and its national security.

There are few in the Senate today old enough to remember Pearl Harbor and the commencement of our military operations that followed. As one of those, I was privileged to serve as a 17- to 18-year-old sailor in the last year of WWII.

America was victorious in WWII because of those in uniform and those at home supporting them—particularly the industrial manufacturing base. The factory floor went to war.

At this time, I would like to have printed in the RECORD historical information outlining the contributions the auto manufacturers made to America's World War II war effort.

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

General Motors:

With America's entry into World War II, no company converted faster or more comprehensively to wartime production than General Motors. It has been called the greatest industrial transformation in history, with more than 200 plants in North America shifting to production of airplanes, tanks, machine guns, and other military vehicles and goods in a matter of months. General Motors alone supplied the US forces with more than $12 billion in military goods (several hundreds of billions when converted to today's dollars), more than any other company.

Ford:

Ford Motor Company's mass production know-how was one of the keys to the Allied victory.

By August 1941, Ford was producing huge 18-cylinder Pratt & Whitney aircraft engines. By summer 1942, Ford's Rouge Plant was building 805 aircraft engines a month, while Pratt & Whitney's plant was building only 600 aircraft engines a month. In total, Ford built 58,000 aircraft engines during the war.

Most notably, Ford produced the B–24 ''Liberator'' bomber at its Willow Run plant. With government support, Ford built the Willow Run plant on about 1,750 acres of former farmland near the village of Willow Run, between Detroit and Ann Arbor. All together, Ford produced about 8,700 B–24s, nearly half of the total built for the US military during the war.

Ford also played a role in the success of the US Army Air Force glider program. Ford was asked to build the gliders in March 1942 and production began that December. Ford eventually produced 4,400 gliders during the war.

In addition, the US Government asked Ford to adapt its aircraft engines to be used in medium tanks.

After 18 months of research and development at Ford's expense, Ford set up a production line at the Lincoln plant in Detroit and began making the tank engine. Over the course of the war, Ford produced almost 27,000 of these engines.

The Army asked Ford to produce other tanks as well, specifically the M–4 Sherman tank. Ford built almost 1,700 Sherman tanks, including more than 1,000 M–10 tanks and almost 13,000 armored cars.

The Army decided it needed a small, all-terrain vehicle, and in 1940, Ford and Willys developed plans. Ford invested $4 million in the program and began producing the ''General Purpose,'' or ''G.P.,'' soon to be called ''jeep,'' in 1941. There were 1,500 built by the spring of that year, and more than 300,000 jeeps were built for the military over the next four years.

After all of the tallies were added, the most important thing that Ford contributed was the know-how and experience to quickly

mass-produce the vehicles, aircraft, and equipment which were needed to win the most important war in the history of the world.

Ford's precision in the machining of tools, and Ford's ingenuity in designing an assembly line and making it work—these were the biggest guns in Ford's arsenal of democracy.

Chrysler:

Chrysler's biggest contribution to the war effort was its production of the M–3 tank, the Martin B–26 bomber, and the 40-millimeter anti-aircraft gun. By the end of the war, Chrysler had developed and produced some 18,000 tanks and supplied the Allies with approximately 500,000 Dodge trucks and more than $3.4 billion worth of military equipment.

Mr. WARNER. Mr. President, hopefully, America and its Allies will never face conflicts that would necessitate the defense production of the foregoing magnitude. Further, the auto industrial base today, as it relates to defense work, is vastly reduced.

But this base is the foundation of today's auto industry, which could, once again, play a significant role in the defense of America.

I would like to conclude with remarks from my longtime friend and colleague, Gen. James L. Jones, who is destined to be the National Security Adviser to President-elect Barack Obama:

The financial health of the domestic auto industry suppliers is critical to national security. These suppliers possess unique capabilities to design and manufacture essential defense components should the United States need them. We can't allow this critical piece of America's manufacturing base to disappear.

Mr. ROBERTS. Mr. President, today, I wish to offer my 2 cents on the latest version of the Auto Industry Financing and Restructuring Act, or as most Kansans call it, the auto bailout.

As is often the case, the national debate over this issue has become more about perception than reality. And, unfortunately, this bill seems to take aim at the perception of the problem rather than the actual problem.

If this body truly wanted to help auto manufacturers and their dealers and their suppliers, we would force not only the management of these companies to make tough choices but all involved, including their creditors and labor.

And, Mr. President, we in Congress would need to make tougher decisions as well.

Unfortunately, this bill offers the perception that concrete restructuring plans will be made for the companies to receive assistance, but reality is that this bill lacks the real teeth to enforce the type of restructuring that so many believe is necessary to put this industry back on its feet.

If Congress were serious about turning the auto industry onto a path of profitability and stability, we would also need to look at our own actions that contributed to their current predicament.

This was articulated quite well in a Wall Street Journal piece yesterday. In recent years, Ford, GM, and Chrysler made money supplying vehicles that consumers wanted, and in doing so made a profit for the companies.

These vehicles were pickups and SUVs that met consumer needs. However, we in Congress decided that manufacturers shouldn't build many of these vehicles. We told the manufacturers that they should build the smaller, less profitable, more fuel efficient cars that many Americans don't want.

If you come out to my home town of Dodge City, you won't see many hybrids or little two-door cars that get 30 miles per gallon. No, you will see Ford F–150s, Dodge Rams, and Chevy Silverados because my constituents need pickups for their daily lives.

It is pretty hard to check your field and feed your cattle in a Prius.

But that is the direction the Federal Government has pushed these automakers and continues to do so in this bill. We have pushed them away from the vehicles that turned a profit and created a perception of an alternate consumer demand.

Another section of this bill that takes aim at perception rather than reality targets business aviation. The perception this bill creates is that business aircraft are some sort of excess expenditure. Because of the inconsiderate actions of three auto executives, this bill wants to condemn the entire business aviation industry.

Well, as a Senator from the State with more general aviation production than anywhere else in the world, I cannot let that claim stand unchallenged.

General aviation contributes more than $150 billion to the U.S. economy each year and employs over 1.2 million people right here in the U.S.

Thirty-eight percent of the aircraft built here are exported, meaning the GA industry is one of the few remaining industries in the U.S. with a positive trade balance. Yet this bill takes the policy position that business aviation is unnecessary.

If the intent of this bill is to punish the big three auto companies, then let's really go after them. Let's prohibit them from flying first class. You tell me what is wrong with flying coach. That is how I fly.

Or maybe we should just prohibit them from flying at all.

But that is not what this bill wants to do. As I have said, this bill only takes aim at the perception of the problem. It completely neglects the fact that companies, large and small, use business aircraft as a way to save time and money.

Furthermore, small towns across the country depend upon the revenue generated by local airports serving business aircraft.

The difficulties of the economy are not felt solely by the auto companies. Over the last 6 weeks or so, nearly 1,800 aviation workers have been laid off in Wichita, KS, alone. These layoffs and a downturn in new orders affects their suppliers and parts manufacturers as well.

If these 14 lines of text condemning business aviation become the new benchmark for future legislation, then the U.S. Congress will have put an American industry that leads the global marketplace at unprecedented risk.

I understand the situation our automotive industry is facing. I don't want to see layoffs or dealerships close or suppliers to have to cut production. But the reality is, whether Congress passes this $14 billion bailout or not, these things will likely happen.

The question we elected officials must answer is whether or not taxpayers will see a return on their investment.

Unfortunately, the bill before us today does not provide such assurances.

I am hopeful that we can continue working towards a bill that provides the necessary reform to ensure stability for the automakers and at the same time protects hard-working taxpayers.

Mr. FEINGOLD. Mr. President, I will support this legislation to provide financing to the U.S. auto industry because without this assistance millions of American jobs, and a fundamental part of our manufacturing base, will be jeopardized. In these difficult economic times, with unemployment increasing, we cannot afford to see these jobs disappear.

I understand that many people are upset about this rescue package. I, for one, am not happy to be running up still more charges on the taxpayers' tab. And I appreciate the arguments that have been made that the automakers' troubles are of their own making. Certainly some of their troubles are indeed of their own making, but not all of them. Some of the problems facing domestic automakers are the direct result of policies enacted or ratified in Washington.

The collapse of the housing and credit markets clearly hit the credit-sensitive auto industry hard, and we know that those problems in particular were not of the auto industry's making. Far from it. They were the result of two decades of the reckless disassembly of a sound regulatory system, combined with some unscrupulous actions by many in the financial industry—a deadly combination that has now brought the entire economy to the brink of disaster including domestic auto producers.

And at the same time Washington was repealing strong financial regulations, bipartisan majorities in Congress, led by Democratic and Republican Presidents, were also advancing deeply flawed trade policies which have further disadvantaged the domestic auto industry. Currency manipulation by foreign competitors, too, has put our domestic firms, including the automakers, at an enormous competitive disadvantage. Combine that with the failure of our major trade agreements to establish reasonable standards for workers, public safety, and the environment, and the self-made problems

of domestic auto producers are greatly magnified.

I will not defend the mistakes made by auto executives, but a significant amount of blame lies with Federal policymakers who blindly embraced philosophies of deregulation and trade that undermined protections for working families, public safety, and the environment. In fact, some of the same people opposed to any temporary help for the automakers now were the ones who helped dig the hole in which that industry now finds itself.

More importantly, being angry at these companies' past mistakes is no reason to permit the auto companies to go under at this time. To allow these companies to go into bankruptcy could prove to be a tremendous shock to our already weak economy and could end up costing the U.S. taxpayers even more in pension guarantees, unemployment benefits, and other costs.

And we are not just talking about the jobs of the autoworkers at the U.S. auto plants, although those jobs are important. We are also talking about the millions of jobs in related industries including steelmakers, rubber companies, hundreds of other suppliers, parts manufacturers, car dealers, and other industries that would be negatively impacted if the U.S. auto companies went bankrupt.

Workers around Wisconsin are already struggling with the downturn in the auto industry and would be even harder hit if Congress fails to provide assistance to the auto industry. My hometown of Janesville, WI, is proud home to the oldest GM plant and for over 80 years, generations of Janesville men and women have built cars and trucks for GM. The Janesville GM assembly plant has been the core of the community and surrounding area for decades by providing its workers with family-supporting jobs and contributing to the lifeblood of the community. Earlier this year, GM announced that it would cease production at the Janesville plant by the end of the year. Despite this unwelcome news, the State of Wisconsin and the local community, including workers, business owners, union leadership, have all come together to propose a plan to encourage GM to retool the plant to build a future product line. I am so proud that stakeholders in Janesville and in Wisconsin have come together to try to keep these jobs in Wisconsin and I will continue to do all I can, along with others in the Wisconsin congressional delegation, to support their efforts to keep an auto presence in Janesville.

Janesville is not the only community in Wisconsin that is closely watching what we do in Congress this week. A Chrysler engine plant employs hundreds of people in Kenosha and various suppliers and related manufacturers do business in communities throughout southeastern and southwestern Wisconsin. I have also heard from auto dealers representing communities all across Wisconsin about the need to provide assistance to the U.S. auto industry to help ensure that their businesses continue to provide jobs in these troubling times. I understand Americans want businesses to be held accountable for bad decisions they have made in the past, and I do not think the Federal Government should get in the business of bailing out every industry in need of help. But in this case, failure to provide assistance to the auto industry could cause such a horrible shock to the American economy and communities all across our country that we must take action.

While I think the Federal Government needs to act, any rescue package should not be a blank check and this particular rescue package contains various provisions to help ensure that the auto companies are held accountable for the Federal financial assistance they receive. Unlike the Wall Street bailout that I voted against, this bill provides strict rules that the auto companies must follow in order for the companies to be eligible for Federal assistance. The companies must negotiate with their employees, shareholders, creditors, and other parties to develop restructuring plans to show how these companies are going to reform themselves for the future, including improving their capacity to build the fuel-efficient vehicles that Americans are demanding. These restructuring plans are due within the first few months of 2009 and if they are not approved by the Federal Government, the auto companies will not be able to receive additional Federal funding and will have to repay the Federal assistance they have already received.

I would have preferred this money to come from the $700 billion Wall Street bailout that Congress passed earlier this year. I am disappointed that the Bush administration refused to use its authority under the Troubled Assets Relief Program, TARP, to provide financial assistance to the auto companies. Congress's investigative arm, the Government Accountability Office, testified before the Senate Banking Committee last week that the Bush administration currently has the authority under TARP to provide this assistance. Secretary Paulson could have acted weeks ago to provide such assistance to the auto industry, yet he continues to refuse to take those steps, and allocate what amounts to a small percentage of the Wall Street bailout to help millions of working families in this country.

Because of the administration's refusal to use its existing authority to help the auto industry, Congress has been forced to act. Unfortunately, we have also been forced by the administration to take money from the Section 136 Advanced Technology Vehicles Manufacturing Program that was created last year to provide Federal funding to auto companies and manufacturers to help them as they develop more fuel-efficient vehicles and related technology. This bill is far from perfect and one of my biggest concerns is that Congress has been compelled to raid the pot of money designed to help auto companies and parts manufacturers build more fuel-efficient cars in the future. Diverting the Section 136 money is going to further set back the work that the auto industry is doing to make their products greener and more marketable.

Everyone, including the U.S. auto industry, has acknowledged that U.S. auto companies need to start building more fuel-efficient vehicles. Furthermore, all of the U.S. auto companies have applied for loans under Section 136 and access to the Section 136 retooling funding is critical to their future success. Yet today we are taking this retooling money to pay for the short-term survival of these companies. This was a false choice and if the administration had been more willing to work with us on this issue, we could have done both. Instead, by taking from the Section 136 program today we are engaging in extremely shortsighted policymaking. I will work with my colleagues to help ensure that funding for Section 136 is reinstated next year.

I regret that we find ourselves in this position today. I thank Senators LEVIN, STABENOW, and DODD and their colleagues in the House of Representatives for putting together this legislation in very difficult circumstances. This bill is not perfect, but given the need for prompt action, I will support it and I urge my colleagues to do the same. We must act in order to help protect millions of American jobs from disappearing and to help prevent countless communities in Wisconsin and around the country from experiencing even more economic hardships in the short term. As the new Congress gets under way shortly, I look forward to helping develop longer-term policies to assist American industry as it responds to 21st century challenges so that it can continue to lead the world in innovation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AUTOMOBILE INDUSTRY CRISIS

Mr. REID. Mr. President, to all those within the sound of my voice, we have tried very hard to arrive at a point where we can legislate for the automobile industry. People have worked very hard. I believe everyone is working in good faith. I am terribly disappointed that we are not able to arrive at a conclusion, but I want to say in the most emphatic manner how much I appreciate Senator CHRIS DODD. He has worked going into months now.

We had the housing crisis, we had the bailout of the financial industry, and now the automobile industry. This man has worked day and night for months. CHRIS DODD is one of America's great legislators. He has been here a long time. He is a veteran of the House and the Senate, and so I admire his patience and perseverance.

His counterpart, Senator SHELBY, and I served together in the House, and he hasn't been heavily involved in these negotiations, but I like RICHARD SHELBY very much. One thing about Senator SHELBY, you never have to guess where he stands on an issue.

In the last several days—and maybe I will be criticized by some on my side, but I doubt that—I have been extremely impressed with BOB CORKER of Tennessee. Now, we weren't able, based on his good work, to arrive at something on which we could get enough Republicans to agree, but he did some wonderful work, and I think the work he did is going to pay dividends next year because even though this is a real loss—my personal feeling—for the country, that we are not going to be able to do something, I think the manner in which we have proceeded, led by Senator CORKER on the Republican side, has been extremely good. I repeat, I think it is going to work well next year.

We have a lot of work to do. We have issues like this we will be dealing with next year, and I think we have come to a point in the legislative process in the Senate that we have to start working together and not have one side say yes and one side say no. So I hope my friends on the other side of the aisle also recognize what Senator CORKER has tried to do.

I certainly have no problem with others who disagreed with the approach we have taken, with the White House. This is not our proposal. We have worked with President Bush. President Bush is President of the United States—and everyone knows, you can read my book as to how I felt about the White House and what has happened—the White House has been extremely available. Josh Bolten and others in the White House have worked very hard with us to come up with an agreement, and we did, working with the House Banking Committee, the Senate Banking Committee, as I have indicated, led by Senator DODD. But we have not been able to get this over the finish line.

So although we have worked and worked—and we could spend all night tonight, tomorrow, Saturday, and Sunday—we are not going to get to the finish line. That is just the way it is. There is too much difference between the two sides. All of us on this side of the aisle are in favor of the proposal that has been negotiated with the White House and the two banking committees, but we are not going to be able to vote on that more than likely.

The procedure now that we have in the Senate is that 1 hour after we come in tomorrow morning, we can vote on cloture. And what are we voting on? It is a bill that we took from the calendar to be an instrument—it is a tax instrument because a lot of what we are doing with this banking matter involves the Finance Committee—and we would take that and move to proceed on that—cloture on that—and then as soon as we got cloture on that, we would amend it with our proposal.

As I have indicated, we know we don't have 60 votes. There is no need to play around with that and cause undo hardship. So I have spoken to my friend, the distinguished Republican leader, and what we propose is that at about 10:30 or so tonight we will vote on cloture, just to show everybody where we are. Everybody should understand when this vote is over tonight—and I don't think we are going to get 60 votes—it is over with.

Mr. President, I dread looking at Wall Street tomorrow. It is not going to be a pleasant sight. Millions of Americans, not only the auto workers but people who sell cars, car dealerships, and people who work on cars, are going to be directly impacted and affected.

As I mentioned earlier today, Christmas is approaching. This will be a very bad Christmas for a lot of people as a result of what takes place tonight.

I want my colleagues to know that I have expressed my opinion as to what I think should happen. There are many people who have been involved in this on the other side of the aisle who in good faith disagree with what I said, and I accept that and appreciate that. But I think the time for talking is over. We should vote and move on to something else.

I am happy to yield to my distinguished colleague, Senator MCCONNELL.

The PRESIDING OFFICER (Mr. CASEY). The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, this has been a challenging exercise for everyone involved on both sides. We all remember a couple of months ago we were called upon to rescue the American financial system. At the end of the day, after a few fits and starts, 74 out of 99 Senators present thought it was a good idea to do that. It was a vote we all proudly cast from our individual seats and most of us supported it. It was a broad, bipartisan vote, supported by the two Presidential candidates as well.

Now we have moved into a very tricky and challenging area, and that is sort of industry-by-industry rescue. We have had before us the whole question of the viability of the American automobile manufacturers. None of us wants to see them go down, but very few of us had anything to do with the dilemma they have created for themselves. So the question was: Is there a way out? The administration negotiated in good faith with the Democratic majority a proposal that was simply unacceptable to the vast majority of our side because we thought it, frankly, wouldn't work.

Into this breach stepped the junior Senator from Tennessee who, I must say, has made an extraordinary impact in a very small amount of time. I am hard pressed to think of another Member who has been here such a short period of time who has made such an impression on colleagues on both sides of the aisle by mastering an extraordinarily complicated subject and being able to explain it in a way that is understandable. He has diligently pursued an agreement that could pass, that could enjoy broad support on both sides. He has made great progress in that direction.

The sticking point we are left with is the question of whether the UAW is willing to agree to a parity pay structure with other manufacturers in this country by a date certain. I understand their reluctance to do that, and so far, in the discussions Senator CORKER and Senator DODD and others have had, they have not been willing to give a date specific by which parity could be achieved. It is upon that issue that we have reached an impasse for the moment.

At this stage I share the view of the majority leader that we should go ahead and have the vote on cloture to the measure he outlined. We can have it at 1 o'clock this morning or we could move it up and do it now. I will be happy, I say to my friend, the majority leader, to try to get the vote we could have at 1 o'clock at 10:30 or 10:40, if he wishes me to. I think that would probably end the discussion, at least for today. We all know we will be involved in this discussion in the future, but that will probably end it for today.

Mr. REID. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to H.R. 7005 occur at 10:40. I ask consent that Senator DODD, who has spent so much time on this, be given 10 minutes.

If there is anyone who wishes to respond to that, they would have 10 minutes to do so.

Mr. MCCONNELL. I say to my friend, I have to reserve the right to object for the moment. I think I have one Member with whom I have to check to see if he can get this done in the next few moments. I can think of no reason this would not be a good idea, but for the moment, I am going to have to object.

Mr. REID. So we don't lose any time, let's move to Senator DODD, and when you come back we will move forward.

Thanks for everyone's patience.

Senator DODD.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, let me begin by thanking the distinguished majority leader and my colleagues. This has been a long ordeal. I know many of the conversations I have had over the last several days have been wondering when, if ever, we might come to a conclusion of what has been a lengthy process over the last 2 weeks

now since this matter emerged. Prior to the Thanksgiving recess, the majority leader and others invited the automobile industry to present plans by December 2 to the Congress on how they might restructure their industry in a way that would allow us to step forward and try to preserve them and allow them to exist for a few more weeks while a broader plan could be devised that would allow them to possibly survive.

As my colleagues may know, over the last several weeks we have had a number of hearings on the matter. The Presiding Officer at this point is a member of my committee, along with others who have been very diligent in sitting through long hearings, on an average of 5 or 6 hours apiece, to listen to all of the various ideas.

As the Republican leader pointed out, it is a very complex subject matter to be asking this institution, in a matter of days, to try to understand with all of the ramifications of it. Given the precarious nature of it, I think we all appreciate at this juncture that we are looking at least one, maybe two, of the three automobile manufacturers that have existed for almost a century in our country—at a time of great economic peril, when the confidence and optimism in our country is at risk—we run the risk over these days of watching this industry disappear. The blow to the American conscience and confidence and capability is beyond economic terms, if that occurs.

I pray this evening that will not happen. No one can say with absolute certainty it will. But we have been warned. We have been cautioned by those whose jobs it is to analyze this industry who have told us that could happen.

Tonight we will go home for the holiday recesses, but for the literally hundreds of thousands of people whose jobs depend upon this industry, this will not be a joyous season, wondering whether their jobs, their livelihoods, their homes, their children's futures are at risk because we were incapable of coming up with an answer to provide a period of time here to allow intelligent, solid, good, hard-working people to put together a plan to save the American automobile industry. It is disheartening to me, to put it mildly, that we were unable to come to that agreement.

Let me say very candidly, BOB CORKER is someone I have come to appreciate immensely. He is a member of my committee. We have worked very well together over this last year on many complicated issues, and I appreciate immensely his effort, as he did again this evening, to try to come to a conclusion where we could at least agree on something to move forward.

There were three major issues my friend from Tennessee brought to me. I will not go into great detail in this limited time. I will wait until tomorrow, if time permits, to go into a longer discussion. Of the three issues, we agreed on two almost immediately. On the third, involving the parity with compensation of the domestic automobile industry and those of the foreign competitors doing business here, we could not come to closure. The issue simply came down to this. There was no debate, by the way, from the United Auto Workers or anyone else that we ought to achieve parity in those wages or benefits. The question was the timing of it.

We are in a deep recession. People are being laid off. The Bank of America announced today 35,000 people will be laid off. Industry after industry is dropping its employees. The idea that you are going to have new hires replace the active employees in a time such as this is difficult, to put it mildly. So the notion somehow that within days or weeks after March 31 of this year that this would mandate—mandate parity between those wages of domestic companies and foreign companies was the stumbling block.

The President of the United States, the other body, Democrats and Republicans as well as the autoworkers, the heads of these companies, came together and for 8 days we negotiated an agreement. It was painful. It is not perfect by a long shot. But it allowed us to get to next year to begin to work on this in a way that might make it possible for this industry to survive.

Tonight, regretfully, despite the efforts of the White House, people here, people in the other body obviously, workers as well as managers, we have stumbled this evening, unable to make this closure on this issue to allow us to go forward.

I am deeply saddened, but more than saddened I am worried this evening of what we are doing with an iconic industry. None of us here was going to write a check without conditionality. This bill I have drafted along with others is some 36 pages long and filled with conditions, establishing a czar—chosen by this President of the United States, not the coming one—to oversee this and say you must meet these obligations if you are going to survive. His determination will determine whether the industry can go forward. If the czar were to say you have not complied, bankruptcy would entail, chapter 11 and, candidly, chapter 7. It would be nothing more than a liquidation of this industry.

But we ought to try to avoid that. I thought most of us felt that was a bad outcome. I know my friend from Tennessee believes that, as I do. The outcome of that will cost the American taxpayers billions of dollars, by the way, and that is very well where we may end up this evening. I regret it deeply. I am saddened by it, worried about it, that in the midst of deep and troubling times we are now going to add to that substantially by walking away from an issue of whether we could agree that parity between these wages and benefits could be achieved without slamming it down in such a way as to make it difficult for us to achieve the result.

Out of the three issues, we agreed on two and three-quarters but were unable to come to closure on this one which, frankly, in my view, was not an economic issue but a political one, because we are not demanding this of dealers, of suppliers, of anyone else. The only group we have asked this of is the workforce. No one else in this bill is required on a date certain to meet any other obligations, only this one. Yet we fully understand economically how hard that could be, to demand that kind of accountability and not trust a czar or a leader working with the industry and others to reach that agreement.

To the majority leader I say thank you, and to your staff, the Banking Committee staff, my friend BOB CORKER, the Members of the House, Republicans and Democrats, to the White House, which has been tremendously helpful in these last few days on trying to put this together without all of us agreeing. Yet, despite all of that, this evening we will not get cloture. This will fail. We will go home. I am afraid our country is going to be in deeper trouble because of this issue. I regret that deeply.

I thank the majority leader.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. I ask unanimous consent the cloture vote vote on the motion to proceed to H.R. 7005 occur—Senator STABENOW wants the last 5 minutes before the vote.

Mr. MCCONNELL. I say to my friend, at least 5 minutes for Senator CORKER.

Mr. REID. Senator SHELBY, 5 minutes?

Mr. SHELBY. I would like 3 minutes.

Mr. REID. Mr. President, Senator CORKER will be recognized for 5 minutes, Senator SHELBY for 3 minutes. I said a lot of nice things about you so that is about the right length of time for the speech. The final 5 minutes will be Senator STABENOW. Then we will vote on H.R. 7005 as soon as their speeches are finished.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Tennessee is recognized.

Mr. CORKER. Mr. President, I want to express my deep gratitude to CHRIS DODD for all the work he has done over the last week, to Senator DURBIN who joined us in meetings, and to all the people who have been involved in trying to reach an agreement.

I do want to say this is a highly technical matter. It involved volunteer employed benefit accounts, it involved bonds, it involved all kinds of discussions that were technical in nature. We had the United Auto Workers representative in the room. We had three companies in another room. We were talking to bondholders on the phone. We were certainly talking to our colleagues. We are about three words, three words away from a deal.

What my colleagues wish to see is a date certain when something is going to occur. We offered any date in the year 2009, any date.

Any day. Just when will we actually get there? I think what we have offered is incredibly reasonable. I think there is a way for us to get there. I still do. There are an awful lot of bright people in this room. This is an important issue. We have solved everything substantially, and about three words keep us from reaching conclusion tonight.

Again, we offered any date in 2009. We were not able to get a definitive day. And I think there is still a way to make this happen. By the way, I want to say, if this happens, this is so much better than what is before us on the floor.

These companies are going to be able to go forward with only one-third of the debt level they now have—one-third. They are going to be able to pay half of their VIVA, $21 billion to GM, half of it in stock, so it is not cash. Those companies will be stronger than they have been in 40 years if we are able to reach this agreement or they will be in Chapter 11 because there are date-certain things that have to occur.

This is a very responsible piece of legislation, and I think people on both sides have acted responsibly. But we are three words—maybe two, maybe four, somewhere in that range—away from having what I believe is a landmark piece of legislation, landmark, historic, that would actually allow those companies to go ahead with strength they have not had in my lifetime. I regret that, but I thank all of those who have been involved.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I have a few minutes, but first I wish to commend my colleague and fellow member of the Banking Committee, Senator CORKER, for his work in this regard, trying to forge a compromise.

Of course, I think most of you know where I stand on bailouts. I do not think they work. I do not believe this one would ever work. But these companies could be saved. These companies could be saved. I have said I think they are bloated, the management is bloated. These companies either have already failed or are failing. That is a shame. These are not the General Motors, Ford, and Chrysler I knew. But all of us in America will benefit by competition.

I come from the South, where we have a growing automobile industry, but there are 300 million people in this country, the largest automobile market in the world. There is no reason for General Motors, Ford, and Chrysler not to be competitive, but they are not going to be competitive, folks, as long as they are operating under this business model. Whether they get money soon or next year or what, it is going to be probably a lot of money.

But I want to tell the American people tonight, bailouts generally do not work. And this is a huge proposed bailout. I fear it is just the downpayment on more to come next year. So I would vote no on this tonight.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, first let me say that this is not a bailout this evening, this is a bridge loan of $14 billion to stop us potentially, if one of the companies goes under, from over $150 billion in taxpayer funds that we will be spending, including assuming the taxpayers' cost for 775,000 pensions in a bankruptcy that will go into the pension guarantee fund. So we are talking about a small bridge loan in a global credit crisis where every other country in the world has stepped up to help their auto industry because they understand it is critical to their national defense, they understand it is critical to their economy, and they are trying to create the middle class we have had in America. In America, if this goes down tonight, we are saying we do not care about the backbone of the economy which has been and will continue to be manufacturing. Somebody has to make something in this country. We cannot all push paper on Wall Street. Somebody has to make something.

The reality is, this is a tough bill. I wish to thank our leaders, Senator REID for his patience and diligence and leadership, and Senator DODD for his incredible patience, his staff being involved. It placed one more crisis on the doorstep of Senator DODD to have to deal with. I appreciate Senator CORKER stepping up to try to work this out and certainly Senator VOINOVICH and Senator BOND. Senator LEVIN and I have worked closely with them. But the reality is this: If we walk away this evening and do not vote to proceed with this bill, we are saying it is okay for a major auto company in America to go bankrupt, for 2.5 million people in this economy to lose their jobs. Over what? We have a tough bill that creates a restructuring mechanism where everybody comes to the table to restructure. We give them until March 31. If they are not moving in good faith, the $14 billion can be rescinded. If they do not have a viable plan by March 31, there is no more assistance.

Unfortunately, what my Republican colleagues have said is that the only way we are going to do this, the only way we are going to do this, is the workers have to negotiate first with the Republican Party, with the Republicans. As long as the workers were willing to take all of the cuts the Republican Party thinks they should before the negotiation, they would be willing to step up and save the backbone of manufacturing in this country and 2.5 million jobs.

We have tried everything. We have negotiated with the White House in good faith. I appreciate that. They have kept their deal. We have negotiated with every party that wanted to come forward, including today, all day, focusing with Senator CORKER. But the reality is, we are in a position where evidently the only thing that matters to the majority of those on the other side of the aisle is that workers get paid too much in this country—somehow, workers get paid too much in this country—and unless we sock it to the workers, they are not willing to allow a $14 billion bridge loan to be able to save an industry and save an—

Ms. MIKULSKI. Mr. President, can we have order? I would like us to at least give the courtesy of listening to the Senator since we are not going to give her the courtesy of the vote.

Ms. STABENOW. Mr. President, there are those who think they can play games with this and there are no consequences. This is not, tonight, about Democrats and Republicans. It is not about auto executives versus workers. This is about the economy of this country. We are in serious trouble, ladies and gentlemen. If one of our auto companies goes down, we are going to pick up the paper and begin to see the suppliers of this country go down. And they supply not only the folks in my State, they supply Toyota, Nissan, and Honda. They supply the Army. The same folks who make the axles for the trucks that our brave men and women are driving in Iraq and Afghanistan today make the axles put on our trucks and our cars.

The reality is, our national defense and our economy and the middle class of this country are hanging in the balance by this vote. Shame on us if we walk away cavalierly thinking that we can do this another time. Now is the time. People are watching, not just in Michigan but all across the country, businesses large and small, families in their homes, retirees who have done nothing but work hard their whole lives and now want to know their pensions or their health care, as part of something they worked for all of their lives, is protected. This is about whether we are going to make a commitment to the middle class and a commitment to American manufacturing. You cannot walk away from the American auto industry and not affect every part of manufacturing in this country.

It is not too late. I know we assume the votes are not there, but the votes can be there. There are enough votes in this room. There are enough votes in this room to give them the chance, just the chance to restructure. And if folks do not believe in the end that what they have come up with, 3 months from now, is good enough, then that is it. But don't 2.5 million people and the major auto presence and manufacturing in this country deserve 3 months, 3 months of time to be able to restructure, for advanced manufacturing in the future? If we do not do that, we are going to change our dependence on foreign oil for a dependence on foreign automobiles. We will be asking other countries to send us their tanks, send us their automobiles, send us their trucks for our defense. That

makes no sense. People of good will know better.

I would ask my colleagues to join with us in voting for the future and the economy of this country.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ALTERNATIVE MINIMUM TAX RELIEF ACT OF 2008—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 1128, H.R. 7005, the Alternative Minimum Tax Relief Act.

Harry Reid, Debbie Stabenow, Byron L. Dorgan, Robert P. Casey, Jr., E. Benjamin Nelson, Joseph Lieberman, Sherrod Brown, Claire McCaskill, Carl Levin, Daniel K. Akaka, Barbara A. Mikulski, Charles E. Schumer, Christopher J. Dodd, Patty Murray, John D. Rockefeller, IV, Richard Durbin, Frank R. Lautenberg.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question, Is it the sense of the Senate that debate on the motion to proceed to H.R. 7005, an act to amend the Internal Revenue Code of 1986 to provide alternative minimum tax relief for individuals for 2008, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Texas (Mr. CORNYN), the Senator from Idaho (Mr. CRAIG), the Senator from South Carolina (Mr. GRAHAM), the Senator from Nebraska (Mr. HAGEL), the Senator from Oregon (Mr. SMITH), the Senator from Alaska (Mr. STEVENS), and the Senator from New Hampshire (Mr. SUNUNU).

Further, if present and voting, the Senator from Texas (Mr. CORNYN), the Senator from Tennessee (Mr. ALEXANDER), and the Senator from South Carolina (Mr. GRAHAM), would have voted ''no.''

The PRESIDING OFFICER (Ms. KLOBUCHAR.) Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 35, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—52

Akaka	Dorgan	Murray
Bayh	Durbin	Nelson (FL)
Bingaman	Feingold	Nelson (NE)
Bond	Feinstein	Pryor
Boxer	Harkin	Reed
Brown	Inouye	Rockefeller
Brownback	Johnson	Salazar
Byrd	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Snowe
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Clinton	Levin	Voinovich
Collins	Lieberman	Warner
Conrad	Lugar	Webb
Dodd	McCaskill	Whitehouse
Dole	Menendez	
Domenici	Mikulski	

NAYS—35

Allard	DeMint	McCain
Barrasso	Ensign	McConnell
Baucus	Enzi	Murkowski
Bennett	Grassley	Reid
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Tester
Cochran	Isakson	Thune
Coleman	Kyl	Vitter
Corker	Lincoln	Wicker
Crapo	Martinez	

NOT VOTING—12

Alexander	Graham	Smith
Biden	Hagel	Stevens
Cornyn	Kennedy	Sununu
Craig	Kerry	Wyden

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 35. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

Mr. REID. Madam President, I enter a motion to reconsider the vote by which cloture was not invoked on the motion to proceed to H.R. 7005.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Madam President, the night is late. Morning is fast approaching. I appreciate everyone's cooperation. We are going to be in a series of pro forma sessions and likely we will be doing no more work until we come back after the reconvening of the new Congress.

I appreciate everyone's work over the past many hours. I have already given my remarks. I only say that I would hope the President, who has worked so well with us the past few weeks on this legislation, would now consider using TARP money to help the auto industry and the workers of this country. Any conditions that were proposed by all Senators—Senator CORKER, Senator DODD; anything they wanted to put in there, they could do anything they wanted. I would hope they would consider that and do it as early as tomorrow.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Connecticut.

THANKING STAFF

Mr. DODD. Madam President, as Members are leaving, I would be remiss if I did not express my very deep and sincere gratitude to some remarkable people who, like all of us, have staff members who do incredible jobs who never get the recognition they deserve. They worked over these past 8 or 9 days literally until 2 and 3 and 4 in the morning—night after night after night—in an effort to put together a package here that would win the approval of our colleagues. These remarkable young men and women have just served our country.

The PRESIDING OFFICER. Could people take their conversations outside the Chamber while the Senator from Connecticut thanks the staff.

Mr. DODD. Madam President, I thank you.

I want to begin by thanking the staff director of the Banking Committee, Shawn Maher. He is the father of a young 11-year-old boy, and I don't think he has probably seen Aidan much over the last number of months, let alone the last week or so, because he has dedicated himself to the work of this Chamber, this body. So I begin by thanking Shawn Maher.

I also thank Aaron Klein, Amy Friend, Dean Shahinian, Neal Orringer, and Deborah Katz; from Senator REID's staff, Mark Wetjen; from Senator DURBIN's staff, Brad McConnell; from Legislative Counsel, Laura Ayoud, who does a remarkable job for all of us.

There are many others, but these are the ones who principally did the work night after night, day after day, nonstop through the weekends, to try to package here a proposal that would win our support. And I apologize to them. We were not able to do it. I feel badly myself that maybe their Members did not probably work as hard as maybe we should have after all the effort they put in. But I want them to know, as we come into this holiday season, there are many people who in this country owe a great debt of gratitude to these people who worked so tirelessly on their behalf but never get the credit and the recognition they deserve.

So this evening I thank them immensely for what they have done, and we will be back another day to fight again, and my hope is to make a difference for people in our country. But we all owe them a debt of gratitude, and I am particularly grateful to each and every one of them.

The PRESIDING OFFICER. The majority leader is recognized.

THANKING MEMBERS AND STAFF

Mr. REID. Madam President, I will be very quick.

Madam President, I apologize that I did not say something a minute ago. We have had a difficult Congress. We have had the staff who are so valiant, so good, who always make us look as good as we can look. Sometimes that is not very good. However good we look, it is because of the great staff we have.

We have been through 95 filibusters this Congress. We have had many serious issues. Our country is in an economic meltdown. We had a series of important votes here. It seemed to never end. But always our staff is here—always. The Democratic staff on this side of the aisle, the Republican staff on the other side of the aisle, they are all very professional; the Parliamentarians, these wonderful pages, the court reporters. And, of course, the Capitol Police, these people—some of whom are in uniform, some not—are here to protect us as well as all the staff.

So I want everyone to know, the four of you seated in front of the Presiding Officer, how much I appreciate the work you do. You are all very patient. You take abuse a lot of times that you should not because a lot of times we are busy and forget that we also have to be nice to everyone. If I have offended any of you over the past couple years, it certainly was not intentional.

I am so grateful that my Democratic colleagues allow me to serve in the capacity I do, as amateurish as I am on occasion, but it is not because I am not trying. I have the greatest affection for every one of my Democratic Senators. They are always so good to me and work so hard.

I look forward to the next year. We need a productive year. Our country is in big trouble. We have so many things happening to us, individuals, that it does not matter where you look in America today, there is very little good news economically. And what happened today is not going to help that. But I talked about that before.

So I appreciate all that everyone does, including the Sergeant at Arms, the Secretary. They do such good work. We have all the committee chairs who work so hard, subcommittee chairs. I have been fighting for some words to express myself how appreciative I am. I am not forthcoming of them, so I will say thank you all very much for what you do for us and, of course, the country.

The PRESIDING OFFICER. The Senator from California is recognized.

A BRIGHTER FUTURE

Mrs. BOXER. Madam President, change is on the way, but it didn't get here tonight. The American people said they wanted change in the Senate, but it is not here yet. I think it was proven tonight by this vote. The American people will see who stands with the middle class of this country and who doesn't, who cares about working people and who doesn't by this vote tonight. Anyone could have picked a number of reasons for voting no tonight, but as far as I am concerned, with this economy in crisis, we should have voted yes.

All I wish to say is we are going through tough times and tomorrow things are going to be a whole lot tougher for a whole lot of people, unless Henry Paulson does the right thing. I wish to say to my colleagues, Senator LEVIN and Senator STABENOW—I know they are headed out, which is fine—that I am going to work as hard as I can to convince the Treasury Secretary to take action to save these 3 million jobs that could be on the line.

People played Russian roulette with this recession tonight. We don't know what is going to happen, but we do know that Hank Paulson can save these jobs. If he can save all those jobs in the white-collar industry, certainly he can save some jobs in the blue-collar industries. Everyone knows I have had problems with Detroit. I think the fact that they didn't listen to those of us who felt they ought to produce clean cars and fuel-efficient cars, the fact that they didn't listen to us led to, in many ways, the problems they face. To lose our manufacturing base, without even a helping hand to try and save it tonight, is shocking.

So, in closing, I wish to say I have a heavy heart right now. I have 200,000 workers in my State, second only to Detroit, who depend on a thriving auto industry. That is 200,000 families, frightened tonight, but I have a message for them: HELP is on the way. Change is on the way. Change is coming to this Chamber. We are going to have people who are here for the right reason—what I consider the right reason—which is fighting for the middle class, fighting to make sure we have a clean environment, a strong economy, educated kids, peace in the world, all those things. That is what the election was about. This is a lameduck Senate, and they acted like a lameduck Senate. It is too bad. But we did get a majority vote, so the message to Mr. Paulson is: Listen to that. More than 51 people here voted to give a chance with a bridge loan, so I hope, Mr. Paulson, you are watching this, and I hope you will do it. Then, when we have our new President and our new Senate and our new House, we can get back to work.

I see Senator DURBIN is on the floor and is about to speak. I wish to thank him, Senator DODD, and Senator REID, all those who worked so hard and those on the other side who tried—who actually tried—to do something. So I yield the floor, with a heavy heart, but I know that the future is going to be much brighter, much better.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

THE AUTOMOBILE INDUSTRY

Mr. DURBIN. Madam President, just a few weeks ago on the floor of the Senate, we passed legislation to give $700 billion to this administration to try to rescue America from its economic crisis. That money was being spent by the Secretary of the Treasury, Mr. Paulson, whom I respect, and he made an effort to try to save a key element of our economy—the financial sector—investing literally billions of dollars and buying equity and capitalizing investment banks and other institutions, including insurance companies, in the hopes that it would turn this economy around. There is scant evidence of any success.

Many questions have been raised about the wisdom and judgment of those investments, but the fact is literally hundreds of billions of dollars have been spent by this administration in an effort to rescue many financial institutions which had made fatal errors in judgment. They brought together rotten portfolios of bad investments on mortgage securities based on this subprime mortgage fiasco which we are now paying a bitter price for.

Tonight, we had an opportunity to loan money—a bridge loan—to one of the most important sectors in our economy: the automobile industry. Now, let me tell my colleagues at the outset, I buy American cars. I do it out of a sense of patriotic duty, and I find that most of those cars are good. But I expect more out of Detroit than I have seen in the past two decades. I have been disappointed—bitterly disappointed—by the positions the big three have taken on critical issues involving the environment, energy efficiency. They didn't seem to get it. When Toyota came out with its Prius, a hybrid car with great mileage, they were scoffed at by the leaders in Detroit. That is a car no Americans would want. Well, there is a waiting list now for those cars. When the price of gasoline reached $4 and beyond a gallon, many people started asking hard questions about the gas guzzlers Detroit put in the showrooms year after year. It seems Detroit was kind of caught in this mindset that they could make a profit by building more of their successful cars from last year. It ran out. It reached a point where they can't sell their cars, and they are struggling. I have some sympathy for them but not a lot when it comes to management. I think they have made some technical and strategic errors that they have paid a heavy price for.

I recall about a year and a half ago when the CEOs of the big three were just off this Senate floor in an office. We had a private meeting with about five or six Senators. They said: Do you have any questions? I said: I do. I said: I buy American cars. I have bought all your cars—GMs, Fords, Chryslers—I have owned them all, and I am pretty loyal to your companies. But I have a question to ask of you: Have any of you ever heard of the magazine Consumer Reports? There was this awkward silence in the room. Finally, a few of them said yes. I said: I read it, and I have been wondering for 20 years why

the Japanese continue to build cars that are more reliable and more valuable at trade-in than American cars. How can that possibly be the case, in a country with the best engineering schools in the world and in a country that founded the automobile industry? How do you explain it, I asked. They paused, and the man from Chrysler said: I think we are getting better. Well, that is a pretty weak answer. They could have done better.

What broke down our effort this evening in trying to provide some sort of interim financing to the automobile companies so they will not go into bankruptcy—what broke down was a negotiation over one issue, and here is what it was, simply stated: There are those who believe automobile workers are paid too much money and get too many benefits such as health care. They think if those compensation packages were reduced, American cars would be more competitive against, for instance, Nissans or Toyota or Honda, even made in the United States. Well, they insisted in our negotiations that the wages of American autoworkers, all 130,000 of them, be brought down to the level of the workers at these foreign car companies in the United States by the end of March next year. A little over 3 months from now, they wanted a substantial reduction in salaries for these workers.

Now, United Auto Workers, which represents most of them, has already reached an agreement that as workers are bought out and retired, newer workers will come in at a lower wage scale. So, eventually, their workforce will have a lower wage but it will not work to the disadvantage of current workers. That is the plan. The Republican side of the aisle rejected that and said: You have to bring down their wages now. Think about that, in this economy. Think about that at a time when most American families are struggling—struggling to pay utility bills and for gasoline when it goes up high and all the other costs of living we face. The Republican answer was: Bring down those autoworkers' salaries and do it in a little over 90 days. I thought that was unfair.

Alan Reuther was in the room when we talked about it. He represents the United Auto Workers. He, of course, comes from the historic lineage of Walter Reuther, who helped found the United Auto Workers, and he explained what this would mean to so many of those families who count on those wages to put kids through college, to make sure they can get by and pay medical bills and things that are important to them, but we didn't have much luck in persuading those on the other side of the table.

There was an exception. Senator CORKER of Tennessee—a Republican who did a magnificent job today—spent 5 hours that I was with him in negotiations doing his best to try to find a solution. He worked at it, and I admire him for it. In the end, he took his best work product to the Republican caucus and it was rejected. We came to the floor tonight and unfortunately saw the last remaining opportunity to help the auto industry die in a procedural vote that occurred a few minutes ago. It is going to be hard for a lot of people who voted against helping the automobile companies with a $14 billion loan to avoid losing 2.5 million American jobs to explain how just a few weeks ago they voted for $700 billion to bail out the biggest banks in America. They shed copious tears for Wall Street but couldn't bring themselves to empathize or be concerned enough to help the autoworkers and give them a vote today. I think that is unfortunate. It is beyond that. It is tragic. If the administration doesn't respond, through the Secretary of the Treasury and others, to help this industry, we may see some terrible days ahead when some of the biggest names in American business—some of the biggest employers in the American economy—are forced into bankruptcy. It will be a sad day.

I don't know if this rescue package would have worked. I am not sure. I don't know if it would have been enough, or whether it would have failed, but I thought we owed our best efforts to try to save an industry that means so much to America in so many States, whether it is Michigan or Indiana or Ohio or Illinois, thousands of workers, in Missouri, 55,000 workers; so many workers depend on this industry. We had a chance to do something for them tonight and we failed. We failed because we couldn't bring over enough votes from the other side of the aisle to come to the magic number of 60.

Tomorrow is another day. If the automobile companies can hang on until a new administration arrives, then perhaps we can find another way to help, a sensible way to give this industry a fighting chance. I hope they will use that time to think about the products for America's future, products that will be profitable but serve the needs of families and businesses and individuals, products that will protect our environment, save energy, move us in the right direction in technology. I know they can do it. Facing the challenge, I believe they will. Those managers and people who are the scientists and engineers at each of these companies can count on those men and women out there on the plant floor who have stood by them year after weary year doing their part to build the cars to try to keep their companies in business. We stood by those men and women tonight, those of us who voted to move forward. I am sorry we didn't come through.

I wish to especially thank my colleague, Senator DODD, who worked so hard. I wish to also thank Senator CORKER, as I mentioned earlier, and many others who played an important role. I wish to say, as I have said to them personally, how sorry I am to Senators LEVIN and STABENOW. That great State of Michigan has taken quite a beating when it comes to its economy, and tonight was not good news, but tomorrow is another day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I have sought recognition to comment on the cloture vote and to give my reasons for voting in support of cloture. Before I do, however, I wish to comment about where the responsibility lies for failure to invoke cloture to move this bill forward, and my hope that we would avoid fingerpointing and trying to assess blame, each on the other side, as has become the pattern in this body during the course of the last 2 years of the 110th Congress and beyond.

The Senator from Illinois said there were not sufficient votes on the Republican side of the aisle. Well, there were sufficient votes on the Republican side of the aisle, had they been joined with sufficient votes on the Democratic side of the aisle. There were 10 Republican Senators who voted to invoke cloture: Senator BOND, Senator BROWNBACK, Senator COLLINS, Senator LUGAR, Senator VOINOVICH, Senator WARNER, Senator DOLE, Senator DOMENICI, Senator SNOWE, and myself.

There are 51 Senators on the other side of the aisle. Had those 51 Senators—or 50 of them joined with the 10 Republican Senators, cloture would have been invoked. But it would be my hope that we would leave this evening without partisan blame and still seek some way to get the kind of economic assistance that would enable the Big Three to continue to operate.

The issue that we face has enormous potential adverse economic consequences. I will read from a portion of a statement I had prepared in a little different direction, but this portion of the statement I had prepared specifies the scope of the economic problem, which is potentially present if the three big automobile manufacturers do not stay in business.

A failure of the automakers could have a cataclysmic impact on the broader economy. The Big Three employ 240,000 workers directly and, more broadly, the U.S. auto industry represents almost 4 percent of the gross domestic product and impacts 1 out of every 10 U.S. jobs in some form, directly or indirectly. These jobs are at part suppliers, dealerships, banks, and many other lines.

According to the Center for Automotive Research, 3 million jobs would be lost if the Big Three were to fail. They estimated that the Government could stand to lose up to $156 billion over 3 years in terms of reductions in Social Security receipts, personal income taxes paid, and an increase in transfer payments.

According to the Anderson Economic Group, if at least two of the three were to file for bankruptcy, it would cost the taxpayers up to four times the amount of the proposed bridge loans in

the form of lost income and tax revenue resulting from the massive employment losses. They estimate that more than 1.8 million auto-related jobs would be lost in the first year, and there would be nearly $70 billion less in Federal and State tax revenue over a 2-year period. Credit and related markets would be further disrupted, more U.S. manufacturing would move overseas, and foreign automakers would gain an even greater advantage.

According to the Economic Policy Institute, a bankruptcy of one or more of the Big Three would result in losses of up to 3.3 million jobs. The U.S. trade deficit could rise by at least $110 billion per year as imported vehicles displace domestic brands, increasing the trade deficit by 16 percent and putting additional downward pressure on the U.S. dollar and living standards. An increase in Government payments and tax losses alone would exceed $150 billion in the first 3 years following bankruptcy.

I recite that in some detail to articulate the scope of the potential devastating impact if the three major auto manufacturers in the United States are unsuccessful. In voting to invoke cloture, I think it should be understood that I was not voting in favor of the House bill. I think the House bill needed vast improvement. But had we taken up the bill, that would have given us an opportunity to offer amendments, to debate, and to function as the world's greatest deliberative body. The House bill, in my judgment, didn't give sufficient authority to the so-called car czar. The House bill added to it, beyond what was agreed to by the Democrats in the Senate and the White House, a provision which would have terminated the litigation brought by the automotive industry against the State of California on the issue of toxic emissions.

I do not know who would have prevailed in that suit, but I think there ought not to be congressional action to get off that litigation. That is a matter for the courts. Under our well-established doctrine of separation of powers, that should have been in the bill. At any rate, had the Senate taken up the bill, which is what the cloture motion meant—people may be watching on C–SPAN 2 and don't understand all of the arcane Senate talk, but a cloture motion is a motion to cut off debate on a motion to proceed. It simply means that the Senate will proceed to consider the issue as formulated in the House bill, as formulated in the vehicle laid down by the majority leader, and then the Senate has the opportunity to offer amendments and to debate.

We have been in session, as the distinguished Presiding Officer knows, since 3 o'clock on Monday. We were here a good part of Monday, all day Tuesday, all day Wednesday, and it is now 11:36 p.m. eastern time on Thursday. The first time we came to the floor to have a discussion on this matter was a short time ago. The deliberations were carried on behind closed doors. Well, deliberations ought to be carried on behind closed doors to try to work through and find compromises and have free-wheeling discussion. But it would be appropriate, it seems to me, for the Senate to come to the floor and talk about what has been decided. The discussion started on the Senate floor a little after 9 o'clock and came to a conclusion a little more than an hour later. At 10:45, we had the motion to invoke cloture—that is, to cut off debate.

We pride ourselves in the Senate as being the world's greatest deliberative body. Well, why not deliberate—deliberate in public? There is nobody in the galleries at the present time, but why not deliberate in public? We are now carried on C–SPAN 2, on television across the country, and across the world perhaps. So people can see what we are doing, and they can see what the considerations are.

The Senator from Illinois made a statement that it was required under the proposal of the Republicans to have the concessions made on wages within a little more than 90 days in March. The Senator from Tennessee, who has been applauded in this body for the outstanding work he has done, said any time during the year 2009. Well, had the two Senators been on the floor and been discussing the matter, perhaps we would know exactly what went on behind those closed doors, what the arrangement was.

I compliment my colleagues for the hard work that went into the efforts to try to reach a compromise. They did work hard. But it seems to me that we all ought to be working harder. We have more time. As the Senator from Tennessee outlined the situation, we were very close, as he put it, with three words separating the parties. Perhaps if we debated the issue, somebody would have changed a position a little. Senator CORKER was correct that there didn't need to be a very big change. Also, when you make the arguments in public, you are under a little more scrutiny than making them in a back room behind closed doors where very few people can hear what you are saying, a few people can evaluate what you are saying, and there is little room for criticism, as opposed to making it on the floor of the Senate where everybody can see and hear what you are doing and you have to stand behind what you are doing. Or perhaps the parties who could not come to an agreement by tomorrow morning overnight would change their positions.

It seems to me that there would be nothing to be lost by invoking cloture and by debating the matter further and by seeing if we can't come to some compromise and some adjustment. There is simply too much involved as the facts that I have cited earlier in this brief statement reflect on the potential economic destruction and losses.

I concur with the Senator from Illinois about the hardship on the workers and the loss of salary and the loss of opportunity to support their families and pay tuition and monthly payments on the mortgage, et cetera, et cetera. No doubt about that. It is my view that we have a duty to go beyond the cloture vote and to take up the matter. I have not given up hope that something may yet be done. The President had backed—and I think still would—the bill that was submitted for consideration—the House bill—absent the issue with respect to the litigation, and perhaps there will be a way yet to find these bridge loans. Certainly, the amount of money involved, while not unsubstantial, is not enormous compared to the other bailouts that have occurred, compared to the total amount which the Congress authorized—the $700 billion figure. In supporting the legislation which Senators LEVIN, STABENOW, BOND, VOINOVICH, BROWN, and I had proposed back on November 20, that was an effort to try to have some deliberation. I was not committed to that bill.

I am certainly not committed to any of the proposals that have yet been offered. But it would have been my hope that in the course of the debate and discussion, and an opportunity by others and myself to offer amendments, that we could have worked the will of the Senate to find our way through to move ahead on a short-term basis, a plan could be constructed that was realistically calculated to succeed.

I am not in favor of throwing good money after bad. I believe philosophically as a matter of public policy that the Government ought not to pick winners and losers. That ought to be the decision of the market. The Government ought to intervene on economic aid or bailout only where the consequences are potentially so disastrous that they would deviate from that principle.

As we conclude this situation, I think this Senate could have done considerably better. I know many of us will continue to work with the administration and with the parties involved.

I convened on December 2 a meeting in Philadelphia with high-ranking executives from Ford, Chrysler, General Motors, and labor leaders in Pennsylvania, the United Auto Workers, the AFL–CIO statewide, and the Philadelphia Labor Council; and auto dealers and suppliers and economists and bankers came together to describe the scope of the problem.

We had a meeting in the Lehigh Valley to grapple with the issue. Certainly, the impact on my State as a microcosm reflects the tremendous potential impact on the Nation as a whole. So we need to continue to work to do our best to find some answer administratively to avoid the potential disastrous consequences which I have enumerated.

I yield the floor.

Mr. DURBIN. Madam President, I salute my colleague from Pennsylvania for joining us in voting for cloture. He

was 1 of 10 Republicans who did this evening. They were Senators BOND, BROWNBACK, COLLINS, DOLE, DOMENICI, LUGAR, SNOWE, SPECTER, VOINOVICH, and WARNER. The motion required 60 votes. It had 53. It was seven votes short. The Senator from Pennsylvania took exception to my characterization earlier that the Republicans could have done more and helped us pass that. I want the RECORD to reflect that on the final vote, before Senator REID changed his vote for procedural reasons, 43 of the 46 Democrats voted in favor of the motion. Ten Republicans voted in favor.

It is clear we could have had more, certainly, but it would not have been enough to make up the seven-vote deficit. When less than a third of the Republicans voted in favor of it, it is pretty clear that most of those on the other side of the aisle did not support that motion, despite the heroic vote by the Senator from Pennsylvania.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

• Mr. KERRY. Madam President, I am necessarily absent for the cloture vote today on the AMT bill which is the vehicle for the auto stabilization legislation. If I were able to attend today's session, I would have supported cloture on the bill.•

U.S. TRADE AND MANUFACTURING POLICY

Mr. REID. Madam President, my good friend Senator Ernest Hollings contacted me and asked if I could have printed in the RECORD a statement he has written about U.S. trade and manufacturing policy. It is my pleasure to do so.

Senator Hollings was a longtime chair of the Senate Commerce Committee and a champion of American manufacturing. His statement contains some insightful and provocative thoughts of his and I encourage all of my colleagues to read it.

Madam President. I ask unanimous ocnsent to have printed in the RECORD Senator Hollings' statement.

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

ECONOMISTS AND FREE TRADE

(By former Senator Ernest F. Hollings (D–SC))

The trouble with the economy is too often the economists who advise, oversee and, in some cases, even manipulate it.

This is the crowd that advised on and overly embraced sub-prime mortgages, derivatives and credit default swaps. The crowd that advised on deregulating the financial industry. And the crowd that, after over stimulating the economy for the past eight years to the tune of $5 trillion of deficit spending, is now calling for, you guessed it, even more financial stimulus!

According to the Congressional Budget Office, last year's deficit or financial stimulus was $1.035 trillion. And as the economists try to decide on the amount of stimulus sufficient to jolt our clearly broken economy, we have already spent $691 [12/5/08] billion on additional financial stimulus just since October 1st—and it is not working.

To really prime the pump of the economy, it should be ''billions for immediate infrastructure—and not much more for financial stimulus.''

The need now is to create jobs and to stop increasing the interest costs on the federal debt, costs that already exceeds $500 billion a year—$500 billion which we should be spending on universal health care and not on economic steroids. More of the wrong kind of stimulus will only serve to stimulate more production in China, at the expense of more jobs being lost here at home.

Of course, the economists for the global financial institutions and the big multinational corporations know this, but because their loyalties are more to their institutions and less to our nation, they continue their calls for ever more ''free trade'' and for continuing U.S. trade and current account deficits.

The irony is that economists learn in their very first class in school that it was a trade war which brought us our initial freedom as a country, and that semi-protectionism later helped build the United States. England started a ''trade war'' with the Colonies by adopting the Navigation Act of 1651 that required all trade be carried in British vessels. Manufacturing was forbidden in the Colonies, even the printing of the Bible, and then the Townsend Acts drafted by Adam Smith placed heavy import duties on a wide range of items. All of this precipitated the Boston Tea Party that started the Revolution.

While we obtained our freedom in 1776, it wasn't until 1787 that we empowered Congress, in Article I, Section 8, of the Constitution, to regulate commerce, both domestic and foreign. President George Washington's first message to the first Congress in 1789 warned that, ''A free people should promote manufactories to render them independent of essential, particularly military, supplies.'' Thereafter, the United States was financed and built for 100 years with semi-protectionism, and we didn't even pass the income tax until 1913. At the advent of the Transcontinental Railroad, it was suggested that the needed steel be obtained from England—but President Abraham Lincoln strongly objected and required the steel to be produced in the United States. And Edmund Morris, describes how the U.S. won the trade war with England in his remarkable book ''Theodore Rex'' about President Teddy Roosevelt. President Roosevelt exclaimed at the time, ''Thank God I am not a free trader.''

Under the new phenomenon called ''globalization'', the so-called ''comparative advantage'' which underpinned the early centuries is no longer God-given or determined by the weather, as was the case, two centuries ago, with David Ricardo's English woolens and Portuguese wine. Now commercial success is largely created, or not, by government policies, and the United States government refuses to compete for such success, even though, as The Economist magazine reported recently, ''Business these days is all about competing with everyone from everywhere for everything.''

Right after World War II, Japan started its trade war by competing in international trade for market share rather than profit. Japan closed its domestic market and sold its exports at cost, making up the profit in its closed market. It subsidized production and targeted certain items in trade—first textiles, then electronics, machine tools, robots and, finally, automobiles. As a consequence, Toyota is today #1 as General Motors, Chrysler and Ford struggle just to survive.

China's post-WWII trade war began when it closed its domestic market to articles domestically produced, but opened it to foreign production in exchange for research and technology. General Motors, Intel and Microsoft, among others, have established major research facilities in China, and the U.S. is now running well more than a $1 billion per month trade deficit with China in just advanced technology products. China has accumulated dollar reserves in excess of $1.3 trillion, and it is now far and away the world's superpower in trade.

These behaviors by Japan, China, India and others are manifest in almost all of America's imports, but they are most manifest in automobiles, where the focus and the consequences are crystal clear.

The United States Congress looks at the BMW plant in South Carolina, my home State, and the Nissan plant in Mississippi as examples of relative success and wonders what's the matter with Detroit?

Yet BMW received a tax deferral benefit of $100 million to locate in South Carolina and Nissan received over $300 million to locate in Mississippi. And all Detroit got—Ford, GM and Chrysler alike—was tax incentives to leave the United States and offshore its jobs and production.

The supervisory personnel from Germany and Japan who run BMW's and Nissan's plants have health care and retirement benefits paid for by Germany and Japan. Detroit has to pay for the health care and retirement benefits of its supervisory personnel.

BMW and Nissan have deductible health care for its employees. Detroit has to pay full health costs on its employees.

BMW and Nissan hire forty-five year olds and under in order to minimize health costs. Detroit has a lot of senior people and legacy costs.

The major parts that BMW and Nissan use to assemble cars in the United States are produced 19% cheaper in Germany and 5% cheaper in Japan because BMW's and Nissan's VAT taxes are rebated when parts are shipped for assembly in the United States. Detroit pays all local, state and federal taxes on its parts.

Nissan, with a largely closed domestic market, does not have to make a profit, and thus located in the United States for market share. Detroit needs to make profits.

BMW and Nissan high-ball the costs of their imported parts so as to minimize profits and taxes to the United States. Detroit has to pay taxes on its profits.

And now, no surprise, the U.S. has a net deficit of $10 billion a month in foreign car imports, or more than $1 trillion in the last eight years, all because of highly and in some cases illegally subsidized competition with Detroit.

And yet some influential economists still call this ''free trade''.

Senate Majority Leader Harry Reid charged Ford, General Motors and Chrysler ''to get their act together [and] to come up with something.'' But Detroit can't do it alone. The new President and Congress must come up with something at the same time for Detroit to recover long-range. Using his authority to protect our national security, President John F. Kennedy instituted his seven-point policy of protection for textiles in 1961. Under Section 201 of the Trade Act, President Ronald Reagan threatened quotas on automobile imports in order to get Voluntary Restraint Agreements from Japan. So clearly the authority is there for President-elect Obama and Congress to impose quotas on imported cars so that Detroit can recover long-term long-range.

Of course, it is not just jobs and production we are offshoring, but also research and development, high-end services and critical military materials.

Thus, Congress must also vigorously (re)assume its responsibility under Article I, Section 8, of the Constitution for regulating trade in general. It must protect our important production and standard of living. And it must make it profitable to invest and produce in the United States.

A value added tax is in order, and long overdue in fact. Every industrialized country except the United States has a value added tax, which is levied on all imports and rebated to manufacturers whenever they export. Today, however, imports into the United States come without any taxes being imposed on them, and U.S. manufacturers not only must pay all corporate taxes but the VAT on their exports.

A U.S. VAT would immediately remove a tremendous disadvantage to production in the United States and begin to deter outsourcing, and the revenues from it would help eliminate both our massive fiscal and trade deficits. Since it would take a year for business and the Internal Revenue Service to gear up for a VAT, in the meantime, we should institute a 10% surcharge on imports as President Nixon did so successfully in 1971.

We must also activate the Commerce Secretary's list of materials critical to our national security. By placing tariffs or quotas on items necessary to our national security and producing them in-country, we will not only be better prepared to defend ourselves but we can put American workers back to work. In 1991, Admiral William Crowe, who was then Chairman of the Joint Chiefs of Staff, warned against the outsourcing of military supplies. In Desert Storm we had to await Japanese flat-panel displays before invading Kuwait. We had to await Swiss crystals before invading Iraq. Now we can't produce planes unless we get certain parts from India, and helicopters unless we get parts from Turkey. This nonsense has got to stop.

Of course for years economists have told us not to worry about the loss of manufacturing jobs, because the United States would simply and easily become a high-end service economy. But as Robyn Meredith writes in her wonderful book ''The Elephant and the Dragon'': ''As China has famously become the factory to the world, India is becoming the world's back office . . . As many as 300,000 American jobs each year will move overseas [to India] for the next thirty years—nine million jobs in all.''

So then the economists told us to ''educate.'' But if they are referring to skills, South Carolina instituted a skilled training program forty-seven years ago, and BMW in Spartanburg, S.C. is now producing a better quality car than BMW produces in Munich, Germany. And South Carolina's technical training program is now being mimicked by Intel in Ireland. But no State and not the United States can educate their way out of unfair competition.

Then there was NAFTA. I voted for NAFTA with Canada because Canada has a free market. A country must have a free market to have free trade. Mexico doesn't have a free market. I counseled the trade policy of the European Union. The EU requires that, before being admitted to the European Union, a country must have developed the entities of a free market like property rights, labor rights, a minimum wage, anti-trust provisions, an independent judiciary, etc. Countries of the European Union taxed themselves $5 billion for five years to develop a free market in Greece and Portugal before admitting them to the EU. Mexico still doesn't have labor rights. U.S. corporations are known to sign up for a union before locating in Mexico, but only pro forma—no business agent at the Mexican facility, and the Mexican workers never hear of having a union. Under Mexican law, if one tries to organize a plant that already has a union, you're fired. On a visit to Tijuana I met with 12 workers who were fired because they tried to organize a union not knowing the plant had one. NAFTA superimposed U.S. subsidized corn on two million small scale Mexican corn farmers putting them out of business. The Mexican farmers headed for the border for work. NAFTA not only exacerbated immigration, but the United States lost jobs and Mexico's workers are paid less today than before NAFTA. We still ought to try the European Union approach in Mexico. With the money we spend on fences, Border Patrol, immigration, prosecutors, courts, jails, deportation, etc., a mini Marshall Plan for Mexico could clean up the corruption and drug problem and develop a free market in Mexico. This will help solve our immigration problem.

As a last stand, the economists raise the specter of Smoot-Hawley. The late Senator John Heinz of Pennsylvania ''belled that buzzard'', passing a protectionist trade bill in the United States Senate twenty years ago. Smoot-Hawley restricting imports did not cause the depression. It was enacted eight months after the crash. At the time, 1930, international trade amounted to only 1.3% of our economy. Cordell Hull had us back with a plus balance of trade in 1933 with his famous reciprocal free trade policy. The economists' free trade policy (without reciprocity) has caused a hemorrhaging of American jobs, production, research, technology, investment and development to China and India.

Henry Ford not only developed mass production of automobiles, but he also greatly contributed to the development of the middle class in America, which is the strength of our democracy. Ford doubled the minimum wage and provided health care and retirement benefits for labor. He strengthened communities with the Ford Foundation, and business was diligent to keep America's economy strong. And we in Congress got in the habit of following business's lead on the economy, adopting Corporate America's suggestions for production, marketing and competition.

But in globalization, Corporate America's leadership for trade and a strong economy has been ''outsourced.'' The industrial icon, Jack Welch, once announced at GE's annual meeting that GE suppliers had to move to Mexico to produce a less-costly product or no longer be considered a GE supplier.

Well, I worked with Corporate America to protect America's investment and production.

When I was in the Senate, I worked with Corporate America to keep our textile industry strong by passing a protectionist trade bill in 1968. President Lyndon Johnson, however, had Wilbur Mills, the powerful Chairman of the House Ways & Means Committee, block the measure. Again with the assistance of Corporate America, I helped pass four protectionist trade bills through both Houses of Congress only to see each of them vetoed—one by President Jimmy Carter, two by President Ronald Reagan, and one by President George H. W. Bush.

Presidents back then were anxious that capitalism defeat communism in the Cold War and weren't worried about our economy. Denied protection by Democratic and Republican administrations, Corporate America began outsourcing and offshoring. Now Corporate America opposes our government competing in globalization with chants of ''free trade,'' ''protectionism,'' ''don't start a trade war.'' Now, our nation's business leaders and their economists, use every trick in the book to mislead on ''protectionism.'' They form organizations like The Trilateral Commission and The Business Roundtable, they promote books like ''The World is Flat'' to warn against protectionism, and even the U.S. Chamber of Commerce is more interested in commerce on Main Street, Shanghai than on Main Street, Spartanburg. The truth is globalization has become nothing more than a trade war, with the U.S. AWOL. And all the while, some major economists oppose any measure to protect our domestic production and economy, and they have become a ''fifth column'' in the trade war.

As Sir James Goldsmith testified before the Committee of Commerce in the United States Senate in 1994: ''It must surely be a mistake to adopt an economic policy which makes you rich if you eliminate your national workforce and transfer your production abroad, and which bankrupts you if you continue to employ your own people.''

But sadly, that's our policy today. Only the President and Congress can change it!

As President Lincoln said: ''As our case is new, we must think anew and act anew. We must disenthrall ourselves [from free trade economists] and then we shall save our country.''

WILLIAM WILBERFORCE TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT

Mr. DURBIN. Madam President, yesterday, on the 60th anniversary of the Universal Declaration of Human Rights, the Senate and House passed an important and comprehensive human rights bill: the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008. I was a cosponsor of this bill in the Senate and celebrate its passage. I commend the leadership of Senators BIDEN and BROWNBACK, Representatives HOWARD BERMAN and CHRIS SMITH, and their staffs, for working with Federal agencies and service providers to craft a consensus, bipartisan bill that will enhance our national and global fight against the scourge of human trafficking. The TVPRA will strengthen the Federal Government's ability to prosecute traffickers, protect trafficking victims, and prevent future crimes.

It is impossible to discuss Congress's efforts to address the issue of human trafficking without acknowledging the invaluable contributions made by the late Paul Wellstone and the late Tom Lantos. Senator Wellstone was the moral conscience of the Senate, and he was the driving force behind the initial antitrafficking legislation passed by Congress in 2000 and signed into law by President Clinton.

Representative Lantos, who introduced the first version of the TVPRA in 2007, passed away earlier this year after nearly three decades of distinguished service in the House of Representatives. He was the only Holocaust survivor ever to serve in Congress, and this experience as a victim of the 20th century's gravest human rights atrocity made him one of the leading voices in our time on human rights.

Passage of the TVPRA is a tribute to the leadership and legacies of Senator Wellstone and Representative Lantos.

I am pleased that the authors of the TVPRA included two of my human rights initiatives from the 110th Congress. First, the TVPRA contains a law enforcement initiative I introduced with Senator COBURN called the Trafficking in Persons Accountability Act, which will allow Federal prosecutors to investigate and prosecute traffickers found in the United States even if their trafficking crimes were committed abroad. This initiative, which I discussed in more detail in a CONGRESSIONAL RECORD statement on October 1, 2008, makes an important statement about this nation's intolerance for human rights abuses wherever they occur.

The Justice Department's Civil Rights Division, working with other DOJ components and with U.S. attorney's offices around the country, brought a record number of trafficking prosecutions in fiscal year 2008, and the TVPRA provides the Justice Department with additional tools—including the Trafficking in Persons Accountability Act—to continue its vigorous fight against human trafficking.

The TVPRA also includes another human rights initiative of mine—the Child Soldier Prevention Act—to deter the use of children as soldiers in armed conflicts around the world. Each day, up to 250,000 children are exploited in state-run armies, paramilitaries, and guerilla groups around the world. These child soldiers serve as combatants, porters, human mine detectors, and sex slaves. Their health and lives are endangered and their childhoods are sacrificed. The lasting effects of war and abuse may also remain with them long after the shooting stops.

The Child Soldier Prevention Act, which I introduced with Senator BROWNBACK in 2007, is designed to encourage governments to disarm, demobilize, and rehabilitate child soldiers that are being used and abused in government forces and government-supported militias. Using the State Department's Country Reports on Human Rights as a barometer, this bill limits the provision of U.S. International Military Education and Training, Foreign Military Financing, and other defense-related assistance in our foreign operations programs for countries that use child soldiers. Countries that are identified in a Human Rights Report as recruiting or using child soldiers in government armed forces or government-supported paramilitaries or militias in violation of international standards would lose their eligibility for substantial U.S. assistance.

Ishmael Beah made a compelling case for the urgent need for this legislation in his testimony last year before my Senate Judiciary Subcommittee on Human Rights and the Law, and in his firsthand account of his years as a child soldier in Sierra Leone in his book ''A Long Way Gone: Memoirs of a Boy Soldier.'' In his testimony before my subcommittee, Mr. Beah said:

> As I speak to you, there are thousands of children from ages 8 to 17—in Burma, Sri Lanka, Congo, Uganda, Ivory Coast, Colombia, just to name a few places—that are being forced to fight and lose their childhoods and their families. They are maimed and lose their humanity, and these are the fortunate ones. Those who are less fortunate are killed in the senseless wars of adults.

There are credible reports that children are again being recruited to fight in the Democratic Republic of Congo, a country that has suffered a recent horrific surge in violence after years of being ravaged by war, and a country that receives U.S. military assistance. The United Nations Children's Fund reports that the forced recruitment of children as soldiers in Congo is widespread and on the rise. Since the most recent outbreak of violence in August, more than 250,000 people have been displaced. According to the U.N., children who flee their homes are often separated from their families, and therefore left unprotected and vulnerable to warring parties that force them into their armies.

The use of child soldiers directly contravenes U.S. policy and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, which the United States ratified in 2002. The United States has a moral obligation to avoid funding armed forces that use child soldiers. I am proud that with the passage of the TVPRA, we have taken an important step to try to stop this abhorrent practice.

Finally, I want to highlight an important provision in the TVPRA that will crack down on foreign diplomats in the United States who abuse their domestic employees. At a Human Rights and the Law Subcommittee hearing I chaired in 2007 regarding human trafficking, we heard testimony from a distinguished human rights lawyer, Martina Vandenberg, who represents several trafficking victims in lawsuits against their traffickers. Due to the doctrine of diplomatic immunity, a legal principle that exempts certain government officials from the jurisdiction of U.S. courts, Ms. Vandenberg indicated that such lawsuits are routinely dismissed.

A July 2008 GAO report, which Senator COBURN and I requested, revealed that there have been 42 documented allegations in the United States of unlawful abuse, exploitation, or human trafficking by foreign diplomats with immunity since 2000, and that the Justice Department has opened 19 criminal investigations of foreign diplomats in the past three years alone. These are not isolated incidents.

The TVPRA requires the Secretary of State to suspend the issuance of A–3 and G–5 visas—used for the hiring of non-U.S. citizens as domestic workers—with respect to foreign diplomats employed by a country or international organization that has a record of tolerating the abuse or exploitation of domestic workers. The act also prevents such visas from being issued or renewed unless the domestic worker meets personally with a U.S. consular official outside the presence of the employer to go over their employment rights and protections. And the act contains a robust reporting requirement that will help keep Congress informed about future incidents of abuse of A–3 and G–5 visa holders, as well as about options to ensure that victims receive appropriate compensation if their rights are violated but they are prevented from seeking a remedy in court due to the assertion of diplomatic immunity.

Human trafficking is a form of modern-day slavery. President-elect Barack Obama has called it ''a debasement of our common humanity.'' With the passage of the TVPRA—the fourth major antitrafficking bill passed by Congress in the past 8 years—Congress has once again exercised its moral leadership on one of the most urgent human rights challenges of our time.

ANNOUNCING CHRISTOPHER JAMES DUFFIELD

Mr. KYL. Madam President, I rise today to announce to the Senate the arrival of another Duffield in this world. Christopher James Duffield was born to his parents, Steven and Cara, on the third day of November. Christopher's father Steven served as the executive director of the Platform Committee at this year's Republican Convention in Minneapolis. Prior to that, Steven served as a senior policy advisor and chief counsel to me at the Republican Policy Committee and the Senate Republican Conference. Christopher's mother, Cara, is a partner at the law firm of Wiley Rein.

Christopher joins us at what is a tumultuous and difficult time for both the Nation and the Republican Party. On November 4, we Republicans fared poorly in Federal elections, losing the Presidency and deepening our deficit in the House and Senate. The new majority promises to cure the Nation's economic ills with a Keynesian spending spree of the type that worked so brilliantly in the 1930s, and pledges that it will reduce taxes for 95 percent of Americans, while only increasing them for some other guy. Many fear that the coming years will put the test to Alexis de Tocqueville's warning that ''the American Republic will endure, until politicians realize they can bribe the people with their own money.''

Meanwhile, since September of this year, the United States has experienced a severe financial crisis, precipitated by the collapse of banks that have been overwhelmed by the weight of unsound mortgages that they acquired. Many established and storied financial institutions have disappeared in bankruptcies and mergers during the last few months. As lending has tightened, unemployment has increased, and

the Nation appears to be headed into a deep recession. And on November 26, as if to remind us that the other problems confronting our nation have not receded, a group of Islamic terrorists attacked innocent civilians in the Indian city of Bombay, killing 171 people. Those attacks reminded many of us of the evil that this Nation faced on September 11, 2001, and of the long war that still lies ahead of us.

And yet—and yet, things are not so bad. The United States is about to complete another peaceful democratic transition, and has just elected its first African-American President, giving hope to many that the Nation will yet overcome its racial divisions. The current credit crisis is not unlike ones that we have survived in the past, and our understanding of the financial system and how to fix it certainly is much deeper than it was in 1929. And, had you asked Americans 7 years ago, very few then would have dared to guess that the United States would not suffer any foreign terrorist attacks on its soil during these ensuing 7 years.

The Republican Party, though currently unloved, will return to its roots and eventually regain the confidence of the American people. And though Republicans will be out of power in the political branches, the current President, with a little help from his friends, has made two very fine appointments to the U.S. Supreme Court, restoring a semblance of the rule of law to that branch of government for the first time in many years.

The Republicans' loss of the Presidency may even have some salutary effects. Already, there are signs that with a Democrat coming to the White House, our Nation's liberal press may relent in its 8-year assault on the authority of the executive branch. On the day that Christopher was born, I and many others picked up the New York Times and nearly spilled our coffee when we came across a front-page article that was titled: ''Next President Will Face Test on Detainees—Some at Guantanamo Called Serious Risks.'' I will ask that a copy of this article be printed in the RECORD following my remarks.

For at least 5 years now, anyone who relied on the New York Times as a source of information about the world was liable to come away with the impression that the men held by our military at the Guantanamo Naval Station are detained there purely out of spite or out of some other even less pure motive. News stories about Guantanamo have credited every accusation made by the detainees and their lawyers, no matter how implausible, but would treat with great skepticism any evidence that the Guantanamo detentions are necessary—that is, on the rare occasion when the papers could even be bothered to report such evidence.

And yet just as a Democratic Presidential victory began to seem inevitable, the New York Times treats us to this article. We learn therein that many of the detainees have participated in terrorist attacks against Americans, are skilled in bombmaking and other terrorist arts, or have announced that they would like nothing better than to return to killing innocent people. For some of us, it is not news that the men detained at Guantanamo are dangerous. I would invite my colleagues to review the minority views that I and others submitted for Senate Report 110–90, or Justice Scalia's dissenting opinion in the Boumediene case. And on November 3, for the first time, such information is not news even to those who trust the New York Times.

Public-relations victories like this one are important, for ultimately our enemies do not expect to defeat us on the battlefield. Rather, they seek to win by sowing fear, by demoralizing us, and by weakening our will to defend ourselves. Their particular brand of medieval barbarism will never sustain a civilization capable of defeating us in a conventional battle, but even a powerful nation such as ours must be willing to fight if it is to prevail against such an enemy.

I know that Steven and Cara will instill in young Christopher, and his sister Laura, an appreciation and respect for our Nation, its unique institutions, and its open and democratic culture. It is just such people, who understand this country and its virtues, who ultimately will ensure that the American way of life continues and even thrives. And it is thus with hope for the future that I welcome young Christopher James Duffield to this world.

I ask unanimous consent that the following news article be printed in the RECORD.

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

[From the New York Times, Nov. 3, 2008]

NEXT PRESIDENT WILL FACE TEST ON DETAINEES

SOME AT GUANTANAMO CALLED SERIOUS RISKS

(By William Glaberson and Margot Williams)

They were called the Dirty 30—bodyguards tor Osama bin Laden captured early in the Afghanistan war—and many of them are still being held at Guantanamo Bay, Cuba. Others still at the much-criticized detention camp there include prisoners who the government says were trained in assassination and the use of poisons and disguises.

One detainee is said to have been schooled in making detonators out of Sega game cartridges. A Yemeni who has received little public attention was originally selected by Mr. bin Laden as a potential Sept. 11 hijacker, intelligence officials say.

As the Bush administration enters its final months with no apparent plan to close the Guantanamo Bay camp, an extensive review of the government's military tribunal files suggests that dozens of the roughly 255 prisoners remaining in detention are said by military and intelligence agencies to have been captured with important terrorism suspects, to have connections to top Al Qaeda leaders or to have other serious terrorism credentials.

Senators John McCain and Barack Obama have said they would close the detention camp, but the review of the government's public files underscores the challenges of fulfilling that promise. The next president will have to contend with sobering intelligence claims against many of the remaining detainees.

''It would be very difficult for a new president to come in and say, 'I don't believe what the C.I.A. is saying about these guys,'' said Daniel Marcus, a Democrat who was general counsel of the 9/11 Commission and held senior positions in the Carter and Clinton administrations.

The strength of the evidence is difficult to assess, because the government has kept much of it secret and because of questions about whether some was gathered through torture.

When the administration has had to defend its accusations in court, government lawyers in several cases have retreated from the most serious claims. As a result, critics have raised doubts about the danger of Guantanamo's prisoners beyond a handful of the camp's most notorious detainees.

But as a new administration begins to sort through the government's dossiers on the men, the analysis shows, officials are likely to face tough choices in deciding how many of Guantanamo's hard cases should be sent home, how many should be charged and what to do with the rest.

The Pentagon has declined to provide a list of the detainees now being held or even to specify how many there are beyond offering a figure of ''about 255.'' But by reviewing thousands of pages of government documents released in recent years, as well as court records and news media reports from around the world, The New York Times was able to compile its own list and construct a picture of the population still held at Guantanamo. Much of the analysis is based on records of hearings at Guantanamo about individual detainees, which have been made public since 2006 as a result of an Associated Press law suit. The Times has posted those documents on its Web site arranged by detainee name.

The analysis shows that about 34 of the remaining detainees were seized in raids in Pakistan that netted three men the government calls major Qaeda operatives: Abu Zubaydah, Ramzi bin al-Shibh and Al Hajj Abdu Ali Shargawi. Sixteen detainees are accused of some of the most significant terrorist attacks in the last decade, including the 1998 American embassy bombings, the 2000 attack on the U.S.S. Cole in Yemen, and the Sept. 11 attacks. Twenty others were called Mr. bin Laden's bodyguards.

The analysis also shows that 13 of the original 23 detainees who arrived at Guantanamo on Jan. 11, 2002, remain there nearly seven years later. Of the approximately 255 men now being held, more than 60 have been cleared for release or transfer, according to the Pentagon, but remain at Guantanamo because of difficulties negotiating transfer agreements between the United States and other countries.

Two of those still held, government documents show, were seen by Mr. bin Laden as potential Sept. 11 hijackers. The case of Mohammed al-Qahtani, whom the government has labeled a potential ''20th hijacker,'' has drawn wide notice because he was subjected to interrogation tactics that included sleep deprivation, isolation and being put on a leash and forced to perform dog tricks.

The other detainee deemed a potential hijacker, whose presence at Guantanamo has gone virtually unmentioned in public reports, is a Yemeni called Abu Bara. The 9/11 Commission said he studied flights and airport security and participated in an important planning meeting for the 2001 attack in Malaysia in January 2000.

The Guantanamo list also includes two Saudi brothers, Hassan and Walid bin Attash. The government describes them as something like Qaeda royalty. Military officials said during Guantanamo hearings that their father, imprisoned in Saudi Arabia, was a ''close contact of Osama bin Laden'' and that his sons were committed jihadists.

Walid bin Attash is facing a possible death sentence as a coordinator of the Sept. 11 attacks. Hassan bin Attash was alleged to have been involved in planning attacks on American oil tankers and Navy ships.

Hassan bin Attash's lawyer, David H. Remes, said the government's claims about the detainees were not credible. He and other detainees' lawyers say that the government's accusations have been ever-changing and that much of the evidence was obtained using techniques he and others have described as torture. ''You look at all of this stuff, and it looks terribly scary,'' Mr. Remes said. ''But how do we know any of it is true?''

The extensive use of secret evidence and information derived from aggressive interrogations has led critics around the world to conclude that many detainees were wrongly held. Nearly seven years after Guantanamo opened its metal gates, only 18 of the current detainees are facing crimes charges.

While both presidential candidates have said they would close the detention center, they have not said in detail how they would handle the remaining detainees.

Mr. McCain has said he would move the Guantanamo detainees to the United States but has indicated that he would try them in the Pentagon's commission system established after 9/11. After the conviction at Guantanamo, last summer of a former driver for Mr. bin Laden, Mr. McCain said the verdict ''demonstrated that military commissions can effectively bring very dangerous terrorists to justice.''

Mr. Obama has said that the Bush administration's system of trying detainees ''has been an enormous failure'' and that the existing American legal system—trials in either civilian or military courts—was strong enough to handle the trials of terrorism suspects.

But in a speech on the Senate floor in 2006, Mr. Obama suggested that the allegations against many of the detainees needed to be taken seriously. ''Now the majority of the folks in Guantanamo, I suspect, are there for a reason,'' he said. ''There are a lot of dangerous people.''

Some of the remaining prisoners have appeared determined to show how dangerous they are. ''I admit to you it is my honor to be an enemy of the United States,'' said a Yemeni detainee, Abdul Rahman Ahmed, a hearing record shows. Officials said Mr. Ahmed had been trained at a terrorist camp ''how to dress and act at an airport'' and to resist interrogation.

A Saudi detainee, Muhammed Murdi Issa al Zahrani, was described by Pentagon officials as a trained assassin who helped plan the suicide-bomb killing of Ahmed Shah Massoud, the Afghan rebel leader, on Sept. 9, 2001.

''The detainee said America is ruled by the Jews,'' an officer said at a hearing after interviewing Mr. Zahrani, ''therefore America and Israel are his enemies.''

One man caught with Abu Zubaydah insisted on his innocence but described a training camp outside Kabul, Afghanistan, where, according to information he gave to interrogators, men were given ''lessons on how to make poisons that could be inhaled, swallowed or absorbed through the skin.''

Mr. bin al Shibh was caught with a group of six Yemenis, all of whom are still held, after a two-and-a-half-hour gun battle. The records of those detainees include allegations that some were ''a special terrorist team deployed to attack targets in Karachi.'' One of the men, Hail Aziz Ahmad al Maythal, was trained in the use of rocket-propelled grenade launchers, machine guns and ''trench digging, disguise techniques, escape methods, evasion and map reading,'' according to the military's allegations.

The records include many of the murky cases that typify the image of Guantanamo, where detainees take issue with their own supposed confessions and, sometimes, their identities. And those doubts too are to be part of a new administration's inheritance.

''I was forced to say all these things,'' an Algerian detainee, Adil Hadi al Jazairi bin Hamlili, said at his hearing when confronted with his confession to murder and knowledge of a plot to sell uranium to Al Qaeda. ''I was abused mentally and psychologically, by threatening to be raped,'' he said, adding, ''You would say anything.''

Abdul Hafiz, an Afghan accused of killing a Red Cross worker at a Taliban roadblock in 2003, told a military officer that he had the perfect alibi. ''The detainee states again that he is not Abdul Hafiz,'' the officer reported to a military tribunal.

TRIBUTE TO SENATORS

GORDON SMITH

Mr. LEAHY. Madam President, I would like to pay tribute today to the service of Senator GORDON SMITH, who has served the people of Oregon and his country with honor. I have had the pleasure of serving with Senator SMITH during his two terms here in the Senate, and during that time he, and his wife Sharon, have been become dear friends. Marcelle and I have often enjoyed traveling with Senator SMITH and his wife Sharon, including a couple of trips to Davos, Switzerland, for the World Economic Forum.

Senator SMITH began his political career in 1992 when he was first elected to the Oregon State Senate. There he served as Minority Leader, and the President of the Senate during his first term in office. Since his election to the United States Senate, Senator SMITH has always been willing to reach across the aisle to bring our colleagues together and his leadership has produced a list of impressive legislative accomplishments.

During his two terms here in the Senate, Senator SMITH has committed himself to efforts on behalf of the people of Oregon, supporting both criminal justice reform and expansion of youth services. Following the tragic death of his son Garrett, Senator SMITH worked tirelessly as an advocate for the early intervention and prevention of youth suicide, establishing a grant program for youth mental health programs through the Garrett Lee Smith Memorial Act which was signed into law by President Bush in 2004. I also appreciate the partnership that we forged in advancing the Innocence Protection Act, a package of modest procedural reforms relating to the death penalty, which I introduced in 2000, and much of which was enacted several years later.

Marcelle and I have valued his friendship and wish GORDON and Sharon all of the best.

JOHN WARNER

Madam President, for most of my time in the Senate it has been my privilege to serve alongside one of its most respected members, the senior Senator from Virginia, Mr. WARNER. As he prepares to retire from his Senate service, I would like to pay tribute to him as a leader, a legislator, and as one of my closest friends in this body.

JOHN WARNER is a living emblem of the finest the Senate has to offer. He is a skilled policymaker who actively contributes to the civility that helps the Senate function as the Founders intended.

Senator WARNER has represented the Commonwealth of Virginia with vision, persistence and wisdom. He has helped lead the Senate through debates on some of the most nettlesome national security issues of our time. Always a gentleman, he has carried himself with the utmost integrity and honesty. He is a Senator of his word. We have worked together on many issues, and I am going to miss his counsel and his friendship.

JOHN WARNER came to the Senate in 1979, after early service in the U.S. Navy and the U.S. Marine Corp's, which led to his successful tenure as the Secretary of the Navy. He quickly made his mark on one of Congress's most important committees for steering our national security apparatus, the Senate Armed Services Committee. He rose quickly in seniority and has served as the committee's chairman, ranking member, and chairman emeritus.

He formed a now legendary partnership with Senator Sam Nunn of Georgia, and together they worked to fundamentally restructure the Nation's war-fighting organization in the mid-1980s. He has worked closely with the committee's current chair, Senator LEVIN, and with ranking member Senator JOHN MCCAIN, to support our troops through the wars in Iraq and Afghanistan. As a member of the Defense Appropriations Subcommittee, I have seen how the two key defense committees have come together to make that extensive and crucial department work better. JOHN WARNER has been an important part of this superb working arrangement, and it was fitting that the fiscal year 2007 Defense Authorization Bill was named in his honor.

Senator WARNER is an accomplished advocate for Virginia—the home to a wide variety of military installations, as well as to rural and urban communities of varied needs. He has tackled the difficult transportation challenges of the Washington, DC, metropolitan area, making a real difference in the lives of millions. As a part time resident of Virginia I have always called him my Senator away from home.

Marcelle and I have enjoyed the friendship and company of JOHN and his wife Jeanne, including on the Senate's delegation to the recent 60th Anniversary of D-Day. Foreign leaders know Senator WARNER extremely well;

they see him, as we do here in the Senate, as a man of great stature and wisdom.

I thank JOHN for his service and for his friendship, and Marcelle and I join all Members of the Senate in wishing JOHN and Jeanne all the best in their future endeavors.

CHUCK HAGEL

Madam President, I rise to acknowledge the work and commitment of a colleague whom I have had the pleasure of serving with for the last 12 years here in the U.S. Senate. Senator CHUCK HAGEL joined the Senate in 1997 after an already successful career in business and public service, both in his home State of Nebraska and here in Washington, DC.

While in the Senate, CHUCK has been a strong independent voice for all Nebraskans and citizens of this country. He is not afraid to share what is on his mind and he is certainly not afraid to reach across the aisle to work with all Senators. In one of his first acts of bipartisanship, Senator HAGEL joined me as a cosponsor of the Landmine Elimination Act of 1997. I worked with CHUCK, who was himself injured by landmines while in Vietnam, to ban new deployments of antipersonnel landmines.

Senator HAGEL has demonstrated an incredible alacrity on defense and foreign policy issues. While it was not popular within his own party, he made the difficult decision to support a timeline for the withdrawal of troops from Iraq. This is just one example of many stances he has taken in Washington that demonstrates how CHUCK HAGEL was an independent voice that Nebraska is proud to call their own.

I am also pleased to know CHUCK and Lilibet as wonderful travel partners. The last trip we took together, in May 2007, was to the Middle East to assess regional conflicts in Jordan, Lebanon, Israel and the West Bank. Trips like these provide the opportunity to get to know Senators and their spouses beyond the day-to-day encounters in Washington and I cherish the time we had to together.

I am pleased to call CHUCK a friend and voice of reason in the U.S. Senate. I will miss him as both a friend and colleague. Marcelle and I and wish him and Lilibet well in whatever way he will next serve Nebraska and our Nation.

PETE DOMENICI

Madam President, I would like to pay tribute to the senior Senator from New Mexico, a dedicated public servant, a respected lawmaker and a man I am proud to call my colleague, PETE DOMENICI.

From his first days in the Senate in the 93rd Congress, to now 35 years later, Senator DOMENICI has earned a reputation as a powerful champion for New Mexico. While he and I have not agreed on some issues, I have never questioned his commitment to do what he believed was right for this country and the State of New Mexico. However, I might question which of our Italian grandmothers made a better meatball, but then again I wouldn't want a fight to break out here on the Senate floor.

Senator DOMENICI has too many accomplishments to list here today. Senator DOMENICI has had a long and distinguished career in the U.S. Senate. However what stands out most to me is his unending drive to enact Mental Health Parity legislation which he worked on so closely with our late colleague Paul Wellstone. I believe it was a fitting tribute to enact this legislation in the closing days of the 110th Congress.

I know it can sound repetitive when people hear Senators make remarks such as these about our colleagues as they are leaving the Senate. But I think it is important for the public to know that despite all the squabbling that goes on in Washington, there is the deep respect, affection, and caring that goes on among the Members of this body. After an incredible 35 years of service New Mexico and the whole United States are grateful, and I consider myself fortunate to have served 33 years with PETE DOMENICI in the U.S. Senate. Marcelle and I wish PETE and Nancy the best.

GORDON SMITH

Mr. COLEMAN. Madam President, when the Founders envisioned this Senate, I believe they hoped it would be a place where strong opinions, established life skills and varied experience would come together to serve the nation. Senator GORDON SMITH of Oregon has matched that standard and the whole nation has benefited.

I have always been encouraged and inspired by Senator SMITH's forward-looking mind and his energetic advocacy of a better life for all Americans. He has fought for better schools for our children. He confronted the reality of America's ''drop-out culture'' and fought for individualized attention for at-risk kids.

We have worked together to ensure that the Medicaid Program fulfills its promise to America's less fortunate, and to extend the excellent quality of American health care to a broader and broader share of the population.

It has been an honor to work with GORDON SMITH on the Aging Committee in particular. His tireless advocacy to ensure that our seniors are afforded the dignity and respect they deserve has been an inspiration.

GORDON SMITH has also been a strong voice for Oregonians on the environment and the natural treasures in their State. And he turned personal tragedy into a nationwide effort to prevent suicide.

On issue after issue, GORDON SMITH has demonstrated a boundless enthusiasm for the process of reform, and a confidence that we can always make government programs more responsive, more relevant and more effective for the American people.

Like the modern day Oregon pioneers he represents, GORDON SMITH has always demonstrated both a fierce independence and a strong belief that there is a better way—if we dream big, work hard and stick together, there is no problem too big for America.

In ''Mr. SMITH Goes to Washington,'' Hollywood memorialized the commonsense man, of impeccable character, as the ideal Senator. GORDON SMITH would have fit the part perfectly. I will dearly miss his integrity, his enthusiasm, and his friendship in this place. But I am excited for what the next chapter of his leadership will mean to Oregon and this country. I hope we can all bring more of his can-do spirit and positive energy to the urgent challenges we face in the days ahead.

TRIBUTE TO TUCKER SHUMACK

Ms. SNOWE. Madam President, I rise today to recognize Tucker Shumack's dedicated service to the Senate Committee on Small Business and Entrepreneurship over the past 3 years. An integral part of the committee staff, Tucker always performed his duties with the livelihood and success of small business owners in mind.

Tucker began his Capitol Hill service in the office of Senator Paul Coverdell from his home State of Georgia. After attending law school, Tucker returned to Washington to work for the Congressman, and later Senator Johnny Isakson, also from Georgia. When he came to the Small Business Committee in the fall of 2005, Tucker was well-grounded in the ways of Capitol Hill. From day 1, Tucker was proactive in efforts to mitigate the often unfair tax structure that small business owners face. Tucker's insights on these subjects have proven immensely critical to me over the years.

Tucker has had many legislative successes helping me forge commonsense bills that appeal to Members on both sides of the aisle. Just last year, Tucker was invaluable in helping me develop provisions to extend the Work opportunity tax credit, to expand small business expensing and enhance the refundable child tax credit. These vital extensions give more people a chance at gainful employment and allow thousands of small businesses to succeed and thrive.

Whether it was extending the new markets tax credit, advocating for a fairer and simpler Tax Code, or confronting the mess known as the alternative minimum tax, Tucker consistently brought colleagues together to find reasonable and sound solutions to the myriad tax problems facing Americans. His ability to forge lasting relationships has made him a key player on Capitol Hill, and his diligence and perseverance have made him a trustworthy ally. My legislative priorities have been well served because of Tucker's talents and expertise.

Always the Southern gentleman, Tucker is easy to get along with because of his charm, grace, and wit—the latter of which Tucker is most famous

for. His ability to make others laugh cannot be overstated! He has certainly had a lasting impact on those with whom he has worked over the years, and his cordial demeanor and welcoming smile will be missed in the Halls of the Capitol complex.

On a personal note, Tucker and his wife Kristine recently welcomed their first child, Tucker, Jr., into the world in August. I am sure that Tucker will be a great father, and look forward to hearing about the Shumack family's adventures throughout the years.

Tucker's departure from the Small Business Committee is a true loss. I owe Tucker a debt of gratitude for his phenomenal work on behalf of the American people. I am confidant that he will quickly become a well-liked and respected member of his new office. I speak for my entire staff when I wish Tucker well in his new job, and in all his future endeavors.

GOVERNMENT ACCOUNTABILITY OFFICE ANALYSIS

Mr. WARNER. Madam President, earlier this summer, when gasoline prices were topping $4 a gallon, I asked the GAO to analyze potential savings from the establishment of a national speed limit. I did not prescribe what that speed limit should be, merely asked the GAO to conduct an analysis at which speeds vehicles were most fuel efficient and make a determination as to whether a national speed limit would have positive impacts on the conservation of gasoline.

My interest in this approach to gas conservation was spurred by a desire for a measure that would provide immediate relief to the overstretched budgets of households across America. I was also dusting off a solution used in the past, specifically, the number of barrels of oil saved when a national speed limit was imposed in 1974 in response to the Arab oil embargo.

Last week, I was pleased to meet with the GAO and hear their findings on the relationship between vehicular speed and fuel economy as well as how reducing the speed limit might affect fuel use and perhaps cost.

While the days of my service in the U.S. Senate are numbered, it is my hope that these findings by the GAO can serve as a useful tool to my colleagues who will return in the next Congress, as I know the interlinked issues of energy, transportation, and climate change are going to remain the focus of much debate and policy making in the coming years.

Mr. President, I thank the GAO for its work, and I ask unanimous consent that GAO analysis be printed in the RECORD.

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

Energy Efficiency: Potential Fuel Savings Generated by a National Speed Limit Would Be Influenced by Many Other Factors

In response to Senator Warner's interest in obtaining information on the possibility of using a national speed limit to reduce fuel consumption, the Government Accountability Office reviewed existing literature and consulted knowledgeable stakeholders on the following:

What is the relationship between speed and the fuel economy of vehicles?

How might reducing the speed limit affect fuel use?

Due to a limited time frame of two months to complete the work, to address these objectives, we limited our analyses to light-duty vehicles, such as cars, sport utility vehicles, and pickup trucks and relied on the expertise of GAO and knowledgeable stakeholders to identify the most relevant economic and transportation literature. We provided a draft to the three agencies whose officials we consulted for our analyses—the Environmental Protection Agency (EPA), the Department of Energy (DOE), and the Department of Transportation (DOT)—and incorporated relevant technical comments. We did not examine other aspects of implementing a national speed limit, such as potential safety impacts. In summary, we found the following.

According to Literature and Stakeholders, Reducing a Vehicle's Speed Can Potentially Increase Its Fuel Economy, Depending on the Vehicle's Characteristics

For a vehicle traveling at high speed, reducing its speed increases fuel economy. In general, at speeds over approximately 35 to 45 mph, if a vehicle reduces its speed by 5 mph, its fuel economy can increase by about 5 to 10 percent, because air resistance, or drag, increases exponentially as a vehicle goes faster. Conversely, air resistance diminishes more rapidly as a vehicle slows down, thus increasing its fuel economy.

According to existing literature and knowledgeable stakeholders, there is no single speed that optimizes fuel economy for all vehicles. Optimal speed for fuel economy for individual vehicles ranges widely, but is generally between 30 and 60 mph, depending on a vehicle's characteristics. For example, according to the most recent published data—a 1997 study by Oak Ridge National Laboratory, commissioned by the Federal Highway Administration (FHWA), that examined fuel economy at different speeds for nine automobiles and light trucks from model years 1988 through 1997—the optimal fuel economy for a 1994 Jeep Grand Cherokee, a sport-utility vehicle, would be about 26 miles per gallon at a steady 40 mph. In contrast, in a 2008 internal study by the Argonne National Laboratory for the Department of Energy (DOE), examining four vehicles, the optimal fuel economy for a 2005 Toyota Echo, a subcompact car, is about 69 miles per gallon, achieved when traveling at a steady 30 mph.

However, a vehicle's fuel economy also depends on other factors besides air resistance. Factors that enhance fuel economy include engine efficiency enhancements (e.g., fuel injection), electronic and computer controls, more efficient transmissions, and hybrid technology. However, other factors, such as increased vehicle weight, decrease fuel economy.

In general, over the last 2 decades, fuel economy gains resulting from advances in automotive technologies have largely been offset by increases in vehicle weight, performance, and accessory loads. Specifically, vehicles are heavier than in the past, because they are larger and include more technologies. For example, average vehicle weight has increased from 3,220 pounds in 1987 to 4,117 in 2008, according to the Environmental Protection Agency (EPA). In addition, trends show that recent vehicles, on average, have bigger, more powerful engines that yield better performance—i.e., acceleration and greater speed—at the expense of fuel economy. For example, according to the same EPA report, average horsepower has increased from 118 to 222 over the same period. Further, increased accessory loads, such as air conditioning and electronics, have also reduced fuel economy. According to EPA, from 1987 through 2004, on a fleetwide basis, technology innovation was utilized exclusively to support market-driven attributes other than fuel economy, such as performance. Beginning in 2005, however, according to EPA's analysis of fuel economy trends, technology has been used to increase both performance and fuel economy, while keeping vehicle weight relatively constant.

According to Literature and Stakeholders, a Reduced Speed Limit Is Only One of Many Factors That Could Affect Total Fuel Use

Lowering speed limits can potentially reduce total fuel consumption. According to literature we reviewed examining the impact of the national speed limit enacted in 1974, the estimated fuel savings resulting from the 55 mph national speed limit ranged from 0.2 to 3 percent of annual gasoline consumption. According to DOE's 2008 estimate, a national speed limit of 55 mph could yield possible savings of 175,000 to 275,000 barrels of oil per day. This range is consistent with estimates of the impact of the past national speed limit. According to the Energy Information Administration, total U.S. consumption of petroleum for 2007 was about 21 million barrels of oil per day.

However, other factors, including drivers' compliance with a reduced speed limit, would affect the actual impact of a lower speed limit on the amount of fuel savings. Reducing the speed limit does not necessarily mean that drivers will comply. In fact, in 1975, under the previous national speed limit, about half of the states reported more drivers exceeding the national speed limit of 55 mph than complying with it. States may vary in their ability to enforce the reduced speed limit, in part due to cost and limited resources, affecting driver compliance. Moreover, a national speed limit would not affect many of the miles driven in the United States, such as those in urban areas, where most vehicles are already traveling at lower speeds due to lower speed limits or congestion. According to FHWA, fewer than one quarter of the vehicle miles traveled (VMT) in the United States would likely be directly affected by a changed speed limit. In addition, congestion forces some vehicles to travel slowly, no matter what the speed limit, meaning a reduction would have little or no impact on fuel consumed on congested roads.

Other external conditions also affect fuel economy, such as road conditions, including whether a road is steep or flat, and weather conditions, including wind speed and direction. Finally, other aspects of driver behavior may also affect fuel consumption. For example, driver behavior may be affected by fuel prices. Higher prices may cause people to drive less or purchase more fuel-efficient vehicles. Similarly, driving at a consistent speed can reduce fuel consumption. In contrast, aggressive driving such as accelerating or stopping quickly can increase fuel consumption. In addition, proper vehicle maintenance—including regularly changing automobile fluids and filters and properly inflating tires—improves fuel economy.

The speed limit is only one tool among many for potentially conserving fuel. Certain realities such as congestion on our nation's roads, how people drive and maintain their vehicles, and emerging technologies are other potential considerations as the nation looks for options to conserve fuel.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Madam President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

We farm close to 200 acres. We are young farmers (under 30), and we are trying to succeed in what seems to be a dying occupation.

A huge blessing right now is that commodity prices are high. Yet ridiculously high fuel prices is causing our overhead to skyrocket. This year we are paying at least $70 more per acre on fertilizer, due to the cost of fuel. Today I paid our most recent bill for farm diesel, at $4.409 per gallon. On ag diesel! Being farmers, we of course live outside of town, so driving into town is cost-preventive. We are wondering if there is any end in sight to the rise of fuel prices. Will we be able to continue farming if the costs keep rising? How high will they go? There are so many questions. There has got to be an alternative to being at the mercy of foreign oil suppliers. They are crippling our society.

TROY and KRISTA, *Caldwell*.

Thank you for providing this outlet to vent. I find it absolutely abhorrent that Venezuela and China can drill 60 miles off the Florida coast but the U.S. cannot because of the incredible power of the environmental lobby. (One Senator) a few weeks ago said that even if we drilled in ANWR, it would only affect the pump price of gas by a penny. Yet when the President went to visit Saudi Arabia, (that same Senator) said if the President could convince them to increase output of 1 million barrels a day, it should drop the price of gas by $.50. That is the same output potential from ANWR, and yet he and other obstructionists on Capitol Hill continue to get away with such duplicity and idiocy. If we had started drilling there in the '90s when it first passed Congress, we would now have more control over our own energy destiny. Instead, we continue to find ourselves over an Arab ''barrel.''

Energy is literally the fuel that drives our economy. It is imperative that we take control of our future by placing national interests ahead of the environmental extremists who exert such control over our nation.

RICHARD, *Pocatello*.

Thank you for the chance to tell you how the high energy prices have affected our family. I am a stay-at-home mom of two, ages 8 and 6. My husband and I have a lot of family who lives in Utah who we use to travel and visit at least once a month. Due to the high gas prices, we are only able to travel down about every four months. We live just outside Idaho Falls and use to drive where we needed to go without much thought. Now my husband rides his bike to work and only drives if the weather is terrible, and the kids and I have to bike to run our daily errands. That would not concern me as much but the roads we have to travel are very busy and do not have bike lanes, sidewalks, or much of a shoulder so they are dangerous for us to ride on. The kids and I, when we have to bike, usually go about 10–15 miles round trip.

I would like to see us be able to increase our own oil production and expand nuclear research. We need to be able to stand on our own and not be dependent on foreign oil especially from countries that are in constant turmoil and not friendly to the U.S.

Thank you for taking the time to listen and for standing up for Idahoans.

SHALEEN.

This may be the perfect opportunity to stand up for market economics! We Americans are addicted to oil. The pain we are now feeling may just be the kick in the pants we need to get the collective will to do something about it. With gas so expensive, alternatives become much more attractive. If government must act, please do not sacrifice our last remaining wilderness, or oceans, or air, to satisfy our filthy addiction. Act to help us kick our dependence on this stuff that is causing so many of our problems.

JAMES.

With a continuing rise in energy prices, our family is not only effected at the gas pump but with an increase in grocery and utility bills as well. Because of the great distances between his clients, my husband drives over a 1000 miles a month for his work. This has put a tremendous amount of stress on the family budget. Our only hope before our family hits financial ruin is that the federal government will think more of the people they represent and less of special interest groups.

REBECCA.

We have let the environmental agenda highjack our country and many [conservatives] are allowing it to happen. If we do not start drilling in ANWR and using coal in place of petroleum, we are going to be in a world of hurt. Alternative energy sources are going to be great when they get here, but that is a generation away. As a country trying to stave off the jihadist and Latin dictators, we had better be self-dependent on our own energy. I hope Congress understands their [role] in this mess. How about a reduction in fuel taxes? If the American people continue to be pressed, they will react. There are unintended consequences that may be very surprising to some. Thanks for your service to Idaho.

WADE.

I have to travel 26 miles one way to work. With the price of gas, it does not pay for me to drive back and forth to work. I like my job but with everything else going up it would be cheaper for me to stay home. I make around $11 per hour and a tank of gas costs me about $50 to fill up a week. That is $200 a month that really bites. I do not know how long I can last without going in the hole and losing my home and cars. If it were not for my wife's job, we would be on welfare or in the streets. Thanks for all your help.

HENRY.

My wife and I live in Idaho and work in Spokane Washington. We are part of a large group that must commute 35 mile one way 5 or 6 days a week in order to pay our bills. My wife and I spend in excess of $500 per month in fuel just for transportation. This is an immense burden on us and will cause a ripple effect in our ability to do other things.

The part that is most upsetting to us is that we all knew that energy prices would increase dramatically at some point and our elected officials chose to do nothing to prepare for it. For more than 25 years, Congress has chosen to ignore the need to force automakers to improve fuel economy and we have seen the U.S car manufacturers overtaken by the Japanese in part because the Japanese understood fuel mileage and reliability go hand in hand. Congress has consistently chosen to cut Amtrak funds and to not fund commuter rail and bus lines.

The American public needs leadership. We do not need to have the latest poll results reread to us—again. This and other crises facing the U.S. will require leadership and sacrifice. Not Laissez-Faire political inaction.

Mass transit, enforced CAFE standards, funding for alternatives in transportation, wind, solar and wave generation. No more subsidies for oil companies. These must be the priorities for Congress.

Nuclear energy is not clean, it is not safe in the long term and it only lines the pockets of the major construction firms.

Take a risk and lead from the front for a change.

MARK.

I have always ridden my bike or walked around town to do my errands, instead of using my vehicle. But when I have to work 15 miles away, I have to drive, plus driving is part of my job.

I can no longer drive to see my 93-year-old aunt; it would cost way too much. Yesterday, here in Hailey, a half tank of gas cost me over $45. I can no longer afford to drive to visit friends or go sightseeing.

I now have to buy cheaper quality foods and have to eat a lot more starch than I desire to do. Forget beef! That is totally out of the question.

I do not have air conditioning, so I am not using extra energy there. I am very careful about leaving lights, TVs, computers, etc. off when I am not using them. I run my washer at night and hang my clothes on the line outdoors in good weather, indoors on a drying rack in bad weather. And I have always done this; I have always tried to save energy, but I still get screwed because most people do not.

I have recycled for many years, and yet there are many places in Idaho where recycling is not mandatory, so people do not bother doing it. This includes well-to-do, educated people, who just do not care, but would change their habits if it were the law.

The price of everything has gone up, but my salary has gone down, and I am frequently out of work. These are not good times; pretty soon it will be a choice of gasoline or my medications. Alternative fuel vehicles should have been available for the general public at least 30 years ago. We all know the technology is there.

Sign me as Disgusted in Idaho

GLORIA, *Hailey*.

We are changing our lifestyle! We are driving less. I simply have stopped all but the most absolutely necessary trips into town. We are moving appointments to coincide with the one day a week we go to town, including attending a Friday night worship service instead of making another trip into town on Sunday to attend. We have quit participating in activities such as extracurricular lessons and sports as the added driving necessary to do these activities is now unaffordable.

Increased energy prices are being reflected in increased food prices at the grocery store and at restaurants. We have stopped eating out at restaurants completely, and have made major adjustments to our eating habits, and to portions served during meals at home. We are going back to a simpler and less varied diet, and just trying to keep the staples like beans, rice, milk, bread, eggs and cheese.

These changes we have made as a family do have an effect on our local economy, as we are holding on to more of our dollars, and not spending them in the community, the local community businesses suffer—it is noticeable because there are a lot of families like ours who are doing the same thing we are because we simply have to in order to survive.

Our country is in a real predicament with the way the government has managed our agricultural production as it ties in with energy production. Ethanol is a poor solution as it requires an imbalance in our crop production, and now wheat prices are sky-high and production is behind. Corn uses a lot of water, which requires fuel to pump and irrigate with, so the net result of ethanol production to use is worse than with pure fossil fuel.

I am not so concerned with the rising cost of fuel, as we truly do have lower fuel costs than most of the rest of the world, and there is nothing wrong with changing our lifestyles to be less consumptive of our resources. What does anger me is that fuel companies are recording record profits quarter after quarter, while the cost of fuel is sending our entire economy into a crisis, and causing our nation to be weakened as a whole.

KRISTINE, *Spirit Lake*.

First off, I would like to thank you for taking action on our country's current energy crisis. I was starting to think that most of our country's politicians were either simply ignoring the issue or were not taking it seriously. I am so glad to know that you are taking the initiative to look for answers to the problem, and I am even more impressed that you are actively looking for answers among the people you represent. This does more to win my [confidence] than any [action] could ever do.

My husband and I enjoy traveling, and the rise in prices has definitely cut down on our travel this summer. We are staying home more often and eating out less. My husband is a student in the nursing program at ISU in Pocatello, and we are concerned about trying to pay for gas as he travels between Idaho Falls and Pocatello on a daily basis this fall. In a more specific example, my husband's mother has Alzheimer's disease, and since our time left with her is limited, we planned a family reunion this year to give her at least one more chance to have all of her children and grandchildren around her. Some of my husband's family live far away, and as airline prices continue to increase, it has really strained their budgets to try to buy plane tickets to come to Idaho. As a family, we have all pitched in to help pay needed travel expenses, but it has been tough. I hate to sound like a whiner, vacationing and eating out are things I can, in the long run, live without, but the problem is that energy prices just keep getting higher, and I do not see any light at the end of the tunnel. I am starting to worry that I will not be able to afford to heat my home this winter. This last winter we used an electric blanket so we could turn our heat off at night and save energy, and we kept our thermostat low and dressed in warm clothes during the day, but Idaho winters are cold, and there is not much more we can do to conserve. We have to have energy to heat our homes and transport us to work and school, and we are getting to the brink of not being able to afford it.

As for answers to the problem, I am no expert on this stuff, but I have done a little reading, and the best answers I can find are as follows:

(1) Build coal to oil plants. Our country has a lot of coal, and we can produce oil from coal for cheaper than we are buying it right now.

(2) Make a push to build more nuclear power plants in the US, and get to work on building them NOW!—they take a long time to build and we are running out of time. I realize there is a strong minority in our country that is good at halting any effort toward starting new nuclear energy plants, but I think if the American public were better educated on the benefits, safety, and cleanliness of nuclear power, the public would stand up against those minorities that are stopping nuclear power in the US. That is why I think that along with trying to build more nuclear power plants, we also need to educate the public.

(3) Drill ANWR. I think that speaks for itself.

(4) I have been really disappointed that our President does not seem to be saying much on the energy crisis. I think he needs to address the American people and make it clear that he sees this as a national crisis. I think he needs to outline for the public what options are being debated in Washington, and what the road blocks are we face. I really think that if he would address this problem directly and publically, it would capture the public's attention and get people more active in standing up and working together to help fix the problem. When 9/11 happened and our country faced a huge crisis, the people of this country came together to help those in need. I think that if we had a leader that let the public know what was going on with the energy crisis—i.e., why we are having such a huge energy crisis and what our options are to fix things—then the people of this country would band together to find answers. Personally, I would like to see the American public band together to fight against all the minority groups out there that stand in the way of things like nuclear power and drilling for oil in places like ANWR, but that just might be me.

Thanks for your efforts. I am glad to know someone in Washington is working on this.

LALOVE, *Idaho Falls*.

I believe getting a handle on energy prices is of utmost importance for our economy. If we do not get it under control, I believe we are headed for a depression the likes of we have never seen before. With the trade imbalance growing along with the cost of oil, at some point something is going to break because we cannot keep a deficit growing at this rate. It is vital that we look into alternative energy sources but that is years away and we need to solve this problem now. It also bothers me that a lot of the money being spent is going to countries that support terrorism. That just seems so backwards.

We need to develop the resources we have. It is so ironic that the activists that are preventing the development of our resources may in fact actually destroy the things they are trying to preserve. I am in favor of protecting the environment but we need to do it in the right way. When energy prices reach a certain point, the majority of the population will demand that these resources get developed any way possible and that would probably end up destroying the environment worse than if we do it the right way now. You can not stop development of it forever and I think we need to do it now when we can control how it is done. In other words, I believe there is a point where the resources will be developed without concern for the environment. I do not think were are far from that.

In summary, I think we need to start developing our oil resources now and continue to work on alternative energy (including nuclear). If we delay I believe it will be economically and environmentally disastrous for us.

BRENT, *Meridian*.

Speed limits 55 mph national. This might help. Slow up and save money.

LOWELL, *Emmett*.

We lost our semi, our independent trucking business. We cannot afford groceries anymore. We nearly lost our house of 16 years, too. If [changes are not made soon], all Americans stand to lose a lot.

JOHN and LAURIE.

Reduce highway speed limits. I drive the interstate between Nampa and Fruitland three times per week. The speed of the traffic, although the limit is 75, is 65 or less. Motorists want permission to drive slower. Lower the speed limit to 55. Truckers would then have a reason to drive slower. They want to save money, but since the speed limit is 65 and all the finances around their trip is based on traveling that legal limit—they have to go 65.

LORI, *Nampa*.

ADDITIONAL STATEMENTS

CONGRATULATING BRONZE MEDAL SCHOOLS IN KENTUCKY

• Mr. BUNNING. Madam President, today I congratulate the top public schools in the Commonwealth of Kentucky. I was pleased to learn that U.S. News and World Report awarded 26 high schools in Kentucky with a bronze medal for their outstanding performance on standardized exams and for providing college-level coursework.

These 26 Kentucky high schools have shown that they foster an environment that serves all students, no matter their academic goals, by demonstrating a commitment to excellence through quality education. These Bronze Medal Schools back this up with measurable academic outcomes that show improvement throughout a range of performance indicators.

I have always been proud of Kentucky education because of its relentless effort to enhance and develop the lives of every student. This is a well deserved recognition for the excellent work that is done by all of these high schools, and I would like to congratulate each for its great success.

The following schools were commended with awards: Barbourville City School in Barbourville, KY; Bardstown High School in Bardstown, KY; Central High School in Louisville, KY; Corbin High School in Corbin, KY; Dawson Springs High School in Dawson Springs, KY; Eminence High School in Eminence, KY; Evarts High School in Evarts, KY; Frederick Fraize High School in Cloverport, KY; Graves County High School in Mayfield, KY; Hancock County High School in Lewisport,

KY; Harlan High School in Harlan, KY; Hazard High School in Hazard, KY; Hickman County High School in Clinton, KY; Jackson City School in Jackson, KY; Johnson Central High School in Paintsville, KY; Magoffin County High School in Salyersville, KY; Owensboro High School in Owensboro, KY; Paintsville High School in Paintsville, KY; Paris High School in Paris, KY; Phelps High School in Phelps, KY; Pineville High School in Pineville, KY; Russell County High School in Russell Springs, KY; Walton-Verona High School in Walton, KY; Whitley County High School in Williamsburg, KY; Williamsburg City School in Williamsburg, KY; and Williamstown High School in Williamstown, KY.

Again, I commend these high schools for a job well done. I hope that their efforts will inspire other schools in Kentucky and around the country to strive for the best.●

CONGRATULATING SILVER MEDAL SCHOOLS IN KENTUCKY

● Mr. BUNNING. Madam President, today I congratulate the top public schools in the Commonwealth of Kentucky. I was pleased to learn that U.S. News and World Report awarded seven high schools in Kentucky with a silver medal for their outstanding performance on standardized exams and for providing college-level coursework.

These seven Kentucky high schools have shown that they foster an environment that serves all students, no matter their academic goals, by demonstrating a commitment to excellence through quality education. These Silver Medal Schools back this up with measurable academic outcomes that show improvement throughout a range of performance indicators.

I have always been proud of Kentucky education because of its relentless effort to enhance and develop the lives of every student. This is a well deserved recognition for the excellent work that is done by all of these high schools, and I would like to congratulate each for its great success.

The following schools were commended with awards: Beechwood High School in Fort Mitchell, KY; Bowling Green High School in Bowling Green, KY; Dupont Manual High School in Louisville, KY; Highlands High School in Fort Thomas, KY; Louisville Male High School in Louisville, KY; North Oldham High School in Goshen, KY; and South Oldham High School in Crestwood, KY.

Again, I commend these high schools for a job well done. I hope that their efforts will inspire other schools in Kentucky and around the country to strive for the best.●

REMEMBERING MARY SWEENEY

● Mrs. CLINTON. Madam President, I would like to take a moment to remember one of my constituents and a life-long New Yorker, Mary Sweeney of Niagara Falls. Seven years ago, it was my great honor to send congratulations to Mary and her husband John on the occasion of their 50th wedding anniversary. I know that her fighting spirit will live on through John and her children, Moira, John, Billy, and Brendan, and a large and loving family of grandchildren, nieces, and nephews.

Born in the Great Depression, Mary exemplified the hopes and dreams of New York families whom I have had the honor and privilege of representing in the Senate these past 8 years. Mary had an ardent appreciation for public service and the political process, and she remained true to her strong convictions throughout her life. She was a loving wife and mother who worked every day to ensure opportunities for her children. In retirement she enjoyed her many grand-children and great-grand-children and she should be proud that the rewards of her commitment to her family, her church, and her community can be seen in the many accomplishments of her family and extended family and in the many loving tributes that have been shown to her since her passing.●

REMEMBERING ROBERT COOK EDWARDS

● Mr. GRAHAM. Madam President, I ask my fellow colleagues to join me in honoring the memory of a dedicated educator and innovator, Clemson University president emeritus Robert Cook Edwards. After a lifetime of unprecedented service to his students as Clemson's longest serving chief executive, Dr. Edwards passed away in Seneca, SC, on December 4, 2008, at the age of 94.

Dr. Edwards will be remembered for his legendary leadership, strength in business negotiation, and passion for Clemson football. Known as a giant in the history of Clemson University and affectionately referred to as ''R.C.'' by his students, he led the institution through a period of peaceful integration and phenomenal growth to become a thriving, coeducational, and diversified university.

Born and raised in Fountain Inn, SC, Dr. Edwards attended Clemson College at the young age of 15. He went on to graduate with a bachelor of science degree in textile engineering in 1933, and after a successful career in the textile industry, he returned to Clemson as the university's first vice president for development in 1956. Dr. Edwards became acting president in 1958, after the death of President Robert F. Poole, and was eventually elected president on April 9, 1959, by the board of trustees. He became the eighth chief executive of Clemson and the second alumnus to hold the position.

Dr. Edwards peacefully led the university through racial integration when its first African-American student was enrolled in 1962. Despite the recurring turmoil of racial tensions during the 1960s, President Edwards handled those challenging times without incident. His brave actions resulted in progress and advancement of equal civil rights throughout the State of South Carolina.

By the time of his retirement in 1979, Dr. Edwards had awarded over 28,000 diplomas, which represented more than 70 percent of all the undergraduate degrees and doctorates awarded in Clemson's history to date, the student body had grown to 11,000 students, 4 schools had become 9 colleges, and the students could choose from over 60 majors. Because of Dr. Edwards's oversight, leadership, and enthusiasm for growth, his influence has stretched beyond the gates of the university to impact the lives of men and women all over the country.

Dr. Edwards was predeceased by his wife Louise Odom Edwards, who died on July 29, 2008. She was affectionately referred to as ''Moon Pie'' by Clemson students and alumni and was said to be a perfect compliment to her husband, ''R.C.''

Robert Cook Edwards's legacy will live on not only in the hearts of his students and fellow educators, but through the developments and achievements he has accomplished at one of our Nation's finest institutions. I ask that the Senate join me in commemorating Dr. Edwards's lifelong dedication to higher learning and to the State of South Carolina.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:21 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 7321. An act to authorize financial assistance to eligible automobile manufacturers, and for other purposes.

H.R. 7327. An act to make technical corrections related to the Pension Protection Act of 2006, and for other purposes.

The message also announced that the House has passed the following bills and joint resolution, without amendment:

S. 3663. An act to require the Federal Communications Commission to provide for a

short-term extension of the analog television broadcasting authority so that essential public safety announcements and digital television transition information may be provided for a short time during the transition to digital television broadcasting.

S. 3712. An act to make a technical correction in the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

S.J. Res. 46. Joint resolution ensuring that the compensation and other emoluments attached to the office of Secretary of State are those which were in effect on January 1, 2007.

ENROLLED BILLS SIGNED

At 3:59 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the Speaker pro tempore (Mr. HOYER) had signed the following enrolled bills:

H.R. 6184. An act to provide for a program for circulating quarter dollar coins that are emblematic of a national park or other national site in each State, the District of Columbia, and each territory of the United States, and for other purposes.

H.R. 7311. An act to authorize appropriations for fiscal years 2008 through 2011 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in persons, and for other purposes.

ENROLLED BILLS SIGNED

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD)

At 6:25 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker pro tempore (Mr. HOYER) had signed the following enrolled bills and joint resolution:

S. 3663. An act to require the Federal Communications Commission to provide for a short-term extension of the analog television broadcasting authority so that essential public safety announcements and digital television transition information may be provided for a short time during the transition to digital television broadcasting.

S. 3712. An act to make a technical correction in the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

S.J. Res. 46. An act ensuring that the compensation and other emoluments attached to the office of Secretary of State are those which were in effect on January 1, 2007.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9103. A communication from the Director of the Policy Issuances Division, Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Mandatory Country of Origin Labeling of Muscle Cuts of Beef (Including Veal), Lamb, Chicken, Goat, and Pork; Ground Beef, Ground Lamb, Ground Chicken, Ground Goat, and Ground Pork'' (RIN0583-AD38) received in the Office of the President of the Senate on December 4, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9104. A communication from the Acting Assistant Director of the Directives and Regulations Branch, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Predecisional Administrative Review Process for Hazardous Fuel Reduction Projects Authorized Under the Healthy Forests Restoration Act of 2003'' (RIN0596-AC15) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9105. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Novaluron; Pesticide Tolerances'' (FRL-8391-5) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9106. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mefenpyr-diethyl and Metabolites; Pesticide Tolerance'' (FRL-8390-8) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9107. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticide Regulations; Technical Amendments'' (FRL-8146-6) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9108. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Etofenprox; Pesticide Tolerance'' (FRL-8390-9) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9109. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act that occurred within the Maxwell Air Force Base, Alabama, and has been assigned case number 06-02; to the Committee on Appropriations.

EC–9110. A communication from the Guiding Coalition Members, Project on National Security Reform, transmitting, pursuant to law, a report entitled ''Forging A New Shield''; to the Committee on Armed Services.

EC–9111. A communication from the Associate General Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Public Access to HUD Records Under the Freedom of Information Act (FOIA) and Production of Material or Provision of Testimony by HUD Employees: Revisions to Policies and Practices Regarding Subpoenas and Other Demands for Testimony'' (RIN2501-AD39) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–9112. A communication from the Acting Secretary, Division of Trading and Markets, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Municipal Securities Disclosure'' (RIN3235-AK20) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–9113. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''General Regulations for Areas Administered by the National Park Service and the Fish and Wildlife Service'' (RIN1024-AD70) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Energy and Natural Resources.

EC–9114. A communication from the Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Mississippi Regulatory Program'' ((SATS No. MS-018-FOR)(Docket No. OSM-2008-0017)) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Energy and Natural Resources.

EC–9115. A communication from the Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Excess Spoil, Coal Mine Waste, and Buffers for Perennial and Intermittent Streams'' (RIN1029-AC04) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Energy and Natural Resources.

EC–9116. A communication from the Acting Director, Office of Acquisition Management, Environmental Protection Agency, transmitting, pursuant to law, a report relative to the Agency's 2008 competitive sourcing; to the Committee on Environment and Public Works.

EC–9117. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Civil Monetary Penalty Inflation Adjustment Rule'' (RIN2020-AA46) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Environment and Public Works.

EC–9118. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Oil Pollution Prevention; Spill Prevention, Control and Countermeasures Rule; Revisions to the Regulatory Definition of ''Navigable Waters'' (RIN2050-AG48) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Environment and Public Works.

EC–9119. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Rulemaking to Reaffirm the Promulgation of Revisions of the Acid Rain Program Rules; Interim Final Rule'' (RIN2060-AP35) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Environment and Public Works.

EC–9120. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Rulemaking to Reaffirm the Promulgation of Revisions of the Acid Rain Program Rules; Direct Final Rule'' (RIN2060-AP35) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Environment and Public Works.

EC–9121. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Regulations Requiring Onboard Diagnostic Systems on 2010 and Later Heavy-duty Engines used in Highway Applications Over 14,000 Pounds; Revisions to Onboard Diagnostic Requirements for Diesel Highway Heavy-duty Vehicles Under 14,000 Pounds'' (RIN2060-AL92) received in the Office of the

President of the Senate on December 9, 2008; to the Committee on Environment and Public Works.

EC–9122. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Alaska; Interstate Transport of Pollution'' (FRL-8750-2) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Environment and Public Works.

EC–9123. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Air Emissions Reporting Requirements'' (RIN2060-AN20) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Environment and Public Works.

EC–9124. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report on the feasibility study that was undertaken to document the development of a project for the South River, Raritan River Basin, New Jersey; to the Committee on Environment and Public Works.

EC–9125. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''2008 Section 846 Discount Factors'' (Rev. Proc. 2008-70) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Finance.

EC–9126. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Percentage under Section 3002(A)(1) of the Housing Assistance Tax Act of 2008'' (Notice 2008-106) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Finance.

EC–9127. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Midwestern and Hurricane Ike Disaster Areas and Population Estimates'' (Notice 2008-109) received in the Office of the President of the Senate on December 9, 2008; to the Committee on Finance.

EC–9128. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled ''Fiscal Year 2007 Report on Pediatric HIV/AIDS Treatment and Prevention''; to the Committee on Foreign Relations.

EC–9129. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2008-217 - 2008-221); to the Committee on Foreign Relations.

EC–9130. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to unvouchered expenditures; to the Committee on Homeland Security and Governmental Affairs.

EC–9131. A communication from the Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report and the Corporation's Report on Final Action for the period of April 1, 2008, through September 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–9132. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's Performance and Accountability Report for fiscal year 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–9133. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of April 1, 2008, through September 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–9134. A communication from the Chairman, National Capital Planning Commission, transmitting, pursuant to law, the Commission's Performance and Accountability Report for fiscal year 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–9135. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period ending September 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–9136. A communication from the Acting Director, Office of Personnel Management, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report and the Management Response for the period of April 1, 2008, through September 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–9137. A communication from the Administrator, U.S. Agency for International Development, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period ending September 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–9138. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report on the General Reevaluation Report relative to the Dallas Floodway, Trinity River; to the Committee on Environment and Public Works.

EC–9139. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report on the feasibility study that was undertaken to document the development of a project for the Illinois River between Henry and Naples with particular reference to the non-Federal Peoria River Front Development project; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 3501, a bill to ensure that Congress is notified when the Department of Justice determines that the Executive Branch is not bound by a statute (Rept. No. 110–528).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CASEY:

S. 3732. A bill to assist in creating substantive culture change in long-term residential care by establishing a small house nursing home loan program to provide for the establishment, renovation, and construction of small house nursing homes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SPECTER:

S. 3733. A bill to require the Federal Energy Regulatory Commission to hold at least 1 public hearing before issuance of a permit affecting public or private land use in a locality; to the Committee on Energy and Natural Resources.

By Mr. ENSIGN (for himself and Mr. REID):

S. 3734. A bill to ratify a water settlement agreement affecting the Pyramid Lake Paiute Tribe, and for other purposes; to the Committee on Indian Affairs.

By Ms. LANDRIEU:

S. 3735. A bill to amend the Internal Revenue Code of 1986 to provide for the eligibility of computer technology and equipment development businesses for enterprise zone incentives; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3736. A bill to amend chapter 417 of title 49, United States Code, to require air carriers and ticket brokers to notify consumers of taxes, fees, charges, and fuel surcharges in a timely manner, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself and Mr. DURBIN):

S. 3737. A bill to require the Secretary of the Treasury to carry out a program to enable certain individuals to trade certain old automobiles for certain new automobiles, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MENENDEZ:

S. 3738. A bill to amend the Truth in Lending Act to permit deferrals on certain home mortgage foreclosures for a limited period to allow homeowners to take remedial action, to require home mortgage servicers to provide advance notice of any upcoming reset of the mortgage interest rate, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DORGAN (for himself and Mr. FEINGOLD):

S. 3739. A bill to address the regulation of derivatives and unregistered hedge funds, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SANDERS:

S. 3740. A bill to ensure access to basic broadcast television after the Digital Television Transition, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. THUNE:

S. 3741. A bill to amend the Clean Air Act to prohibit regulation of certain emissions from agricultural production; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BURR (for himself, Mr. NELSON of Nebraska, Mr. MARTINEZ, Mr. HARKIN, Mr. THUNE, Mr. NELSON of Florida, Mr. BUNNING, Mr. HATCH, Mr. INHOFE, and Mr. ENZI):

S. Con. Res. 107. A concurrent resolution expressing the sense of Congress regarding the rights of Members of Congress (or any employee of a Member of Congress authorized by that Member) to lead tours of the United States Capitol complex; considered and agreed to.

ADDITIONAL COSPONSORS

S. 453

At the request of Mr. BAYH, his name was added as a cosponsor of S. 453, a bill to prohibit deceptive practices in Federal elections.

S. 960

At the request of Mrs. CLINTON, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 960, a bill to establish the United States Public Service Academy.

S. 2173

At the request of Mr. HARKIN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2173, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 3364

At the request of Mrs. LINCOLN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 3364, a bill to increase the recruitment and retention of school counselors, school social workers, and school psychologists by low-income local educational agencies.

S. 3517

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3517, a bill to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to provide parity under group health plans and group health insurance coverage for the provision of benefits for prosthetic devices and components and benefits for other medical and surgical services.

S. 3683

At the request of Mr. INHOFE, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 3683, a bill to amend the Emergency Economic Stabilization Act to require approval by the Congress for certain expenditures for the Troubled Asset Relief Program.

S. 3697

At the request of Mr. INHOFE, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 3697, a bill to amend the Emergency Economic Stabilization Act to require approval by the Congress for certain expenditures for the Troubled Asset Relief Program.

S. 3708

At the request of Mrs. CLINTON, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 3708, a bill to amend the Public Health Service Act with respect to health professions education, and for other purposes.

S. 3728

At the request of Mr. SANDERS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3728, a bill to direct the Secretary of Transportation to waive non-Federal share requirements for certain transportation programs and activities through September 30, 2009.

S. RES. 710

At the request of Mr. REED, his name was added as a cosponsor of S. Res. 710, a resolution designating the week of February 2 through February 6, 2009, as ''National Teen Dating Violence Awareness and Prevention Week''.

S. RES. 728

At the request of Mr. MCCAIN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Res. 728, a resolution designating January 2009 as ''National Mentoring Month''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. CASEY:

S. 3732. A bill to assist in creating substantive culture change in long-term residential care by establishing a small house nursing home loan program to provide for the establishment, renovation, and construction of small house nursing homes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CASEY. Mr. President, I rise today to introduce the Promoting Small House Nursing Homes Act. This is a bill I expect will play a significant role in the way we care for our older citizens in this country. I also hope and expect this bill to make an important contribution to the framing and substance of the landmark health care reform we anticipate in the coming year. Moreover, because our current economic problems are interwoven with out-of-control health care costs, this bill will contribute to a revitalization of our economy and the creation of new jobs. Finally, it will establish solid criteria for long term residential care that will not only improve the quality of life of older citizens, but save money through cost-effective, comprehensive and coordinated long term and health care.

This bill provides a dramatically different approach to long term residential care for older citizens than is offered by the traditional nursing home model.

The Promoting Small House Nursing Home Act incorporates the principles of person-centered care as a cornerstone of all aspects of long term residential care. What do we mean by person-centered care? The philosophy is simple: Our older citizens deserve to live lives of dignity and respect through all stages of life. About 10 years ago, the Philadelphia Inquirer reported, ''Life can have quality and meaning even until the very last breath.'' Our older citizens have a profound right to be decision-makers in their own care—to be at the center of their own care, with a partnership of family and providers. Our older citizens are critically important to the overall health and well-being of our society. I quote a well known expert in person-centered care, Dr. Bill Thomas, who says, ''People of all ages will live better lives when we succeed in bringing elders back to the heart of our society.''

My bill translates this profound philosophy into a specific policy prescription by doing the following: creating a low-interest loan fund for building new or renovating existing long term care facilities that follow articulated small house nursing home model guidelines; etablishing clear and specific program requirements and guidelines that build upon existing programs that have successfully implemented substantial culture change and person-centered care; creating a home-like and non-institutional model of care for long term care residential facilities that is based upon the principles of: collaborative decision-making; respect; and significantly improved quality of life for residents and staff alike.

We currently have an estimated 38 million Americans over the age of 65, and that number is expected to double within the next 20 years. In the midst of this, health care costs are rising exponentially, the quality of outcomes is not consistent, and older citizens are often abandoned to navigate a confusing and complex health care system. Older citizens also report extremely low levels of satisfaction with life in nursing homes. This $122 billion industry includes 16,000 nursing homes and significant concerns persist about maltreatment and neglect of our older citizens in 20 percent of these homes. As I know from my work in State government, most nursing homes provide quality care but that 20 percent is what we hear most about. However, a recent survey by the AARP found that fewer than 1 percent of individuals over 50 with a disability want to move to a nursing home. There has to be a better way, and in fact there is.

Person-centered care provides that better way. It is a straightforward concept and yet it has taken years of hard work to get concrete initiatives underway. We have a long way to go and much to learn. But in order to succeed, we must pass legislation like the bill I have introduced today.

Traditional nursing facilities require residents' lives to revolve around institutional schedules for waking, bathing and dressing. Traditional facilities far too often identify residents by their health conditions, vulnerabilities and room numbers rather than their unique strengths and gifts. Staff members are attracted to the field of direct care service because they want to help older citizens but they are just as ill-served by this institutionalized culture as are the residents. Workers are minimally trained, over-worked and carry patient loads that make it impossible to engage in any personal time with residents—in fact, such relationships are often discouraged. They have little or no say in decision-making, relegated—like the residents—to the fringes of a system that places the needs of the institution over those of the human beings in it.

In July of this year, I chaired a hearing for the Aging Committee that examined this small house nursing home model. One of our witnesses was a nursing assistant who previously worked for a traditional nursing home and now works in a small house nursing home in Pennsylvania. She recounted the difference, saying, ''Looking back on it, now, I realize that while we offered our residents excellent nursing care, that did not always translate into a high quality of life.'' She described handling a wider range of duties now, yet having more time to spend with individual residents and really getting to know—and even love—them because the staffing is consistent and the turnover is almost non-existent. Another witness at our July hearing was the daughter of a woman who moved from a traditional nursing home to a small house nursing home. She summed up the dramatic change in her mother with this simple phrase, ''Suddenly, life mattered again.''

It should be a given that ''life matters'' to every person. While every citizen has this fundamental right, our older citizens who have worked hard their whole lives truly deserve to enjoy their later years in homes that offer them comfort, respect and autonomy. I strongly believe the Promoting Small House Nursing Homes Act will make this possible and I urge my Senate colleagues to join me in supporting this effort in its own right as well as the significant role it can play in the larger issues of comprehensive health care reform and revitalizing our economy. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Promoting Small House Nursing Homes Act''.

SEC. 2. SMALL HOUSE NURSING HOME LOAN PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a small house nursing home loan program (in this section referred to as the ''program'') under which the Secretary makes grants to eligible lenders in order for such eligible lenders to make direct loans to eligible borrowers for the establishment, renovation, and construction of small house nursing homes that meet the requirements of this section.

(b) ELIGIBILITY.—

(1) PROGRAM GRANT ELIGIBILITY.—To be eligible to obtain a grant under the program, an eligible lender shall—

(A) be a nonprofit, non-Federal lender;

(B) have a track record of lending to small house nursing homes, low income populations, or nursing homes that serve low income populations; and

(C) submit to the Secretary an application in such form as the Secretary may reasonably require.

(2) SMALL HOUSE ADVISORY PANEL.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish an advisory panel (in this section referred to as the ''Small House Advisory Panel'') to—

(i) evaluate applications for direct loans under the program in conjunction with eligible lenders; and

(ii) carry out other responsibilities determined appropriate by the Secretary.

(B) MEMBERSHIP.—The Small House Advisory Panel shall consist of not less than 5 and not more than 7 individuals who have expertise in the areas of person-centered long term care culture change, long term care financing, consumers, and direct care workers.

(3) EVALUATION OF ELIGIBLE BORROWER APPLICANTS.—

(A) ESTABLISHMENT OF EVALUATION TOOL AND CRITERIA.—

(i) IN GENERAL.—The Secretary, in collaboration with the Small House Advisory Panel, shall establish an evaluation tool and evaluation criteria with which to prioritize eligible borrowers who submit to an eligible lender an application for a direct loan under the program.

(ii) EVALUATION TOOL.—The evaluation tool established under subparagraph (A) shall be based upon the model guideline priorities under subsection (c)(5).

(iii) PRIORITIZATION OF ELIGIBLE BORROWERS.—Eligible borrowers shall be prioritized under the program in accordance with the extent to which they meet such model guideline priorities.

(B) EVALUATION OF APPLICATIONS AND RECOMMENDATIONS.—

(i) IN GENERAL.—Applications for a direct loan under the program shall be evaluated by the Secretary, in collaboration with the Small House Advisory Panel.

(ii) RECOMMENDATIONS.—The Secretary shall establish procedural guidelines under which any recommendations of the Secretary for making direct loans shall be provided to eligible lenders.

(4) LOAN ELIGIBILITY.—To be eligible for a direct loan from an eligible lender under the program, an eligible borrower shall be a private or public nonprofit entity or a for-profit entity that—

(A) agrees to use the proceeds from such direct loan to construct or renovate a small house nursing home that—

(i) is designed to establish substantive culture change; and

(ii) meets the model small house nursing home requirements and guidelines under subsection (c);

(B) submits a detailed plan describing—

(i) the particular model or approach to person-centered care that the small house nursing home will implement; and

(ii) how the small house nursing home will meet such model small house nursing home requirements and guidelines;

(C) has been approved by a State or local entity (in accordance with applicable State and local law) to operate a skilled nursing facility (as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)) or a nursing facility (as defined in section 1919(a) of such Act (42 U.S.C. 1396r(a)));

(D) with respect to the facility, ensures that at least 30 percent of the residents of the facility are Medicaid-funded individuals under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), as determined in accordance with guidelines to be issued by the Secretary that take into consideration the number of days such residents spend in the facility, and does not discharge residents based on their ability to pay;

(E) complies with lending standards developed, in consultation with the Secretary, by a task force of experts in long-term care financing, affordable housing with services development, and nontraditional lending; and

(F) agrees to share financial and operating data with researchers and Federal agencies designated by the Secretary.

(5) LOAN DISQUALIFICATION.—In no case may an entity which has displayed a pattern of failing to comply with State and Federal quality of care standards (as determined by the Secretary) or an entity with a pattern of violating State and Federal labor laws (as determined by the Secretary) be an eligible borrower under the program.

(c) MODEL SMALL HOUSE NURSING HOME REQUIREMENTS AND GUIDELINES.—

(1) IN GENERAL.—

(A) DEVELOPMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall develop model small house nursing home guidelines that meet the requirements of this subsection.

(B) CONSISTENCY WITH REQUIREMENTS APPLICABLE UNDER THE SOCIAL SECURITY ACT.—The guidelines established under subparagraph (A) shall be consistent with, and in addition to, any requirements applicable to an eligible borrower under sections 1819 and 1919 of the Social Security Act (42 U.S.C. 1395i–3; 1396r).

(2) PRACTICE RESEARCH AND IMPLEMENTATION.—

(A) IN GENERAL.—Under the guidelines under paragraph (1), a small house nursing home that obtains proceeds from a direct loan made under this section shall be based on methods and practices that have been tested through pilot programs and other research carried out at not less than 1 implementation site in the United States for at least a 2-year period.

(B) IMPROVEMENTS IN QUALITY OF LIFE.—Pilot programs and research referred to in subparagraph (A) shall be designed to establish a clearly articulated, evidence-based approach to creating improvements in the quality of life and care outcomes of residents of small house nursing homes as well as providing for improvements in the professional satisfaction and career development of the staff of small house nursing homes.

(C) RESEARCH REQUIREMENT.—Research referred to in subparagraph (A) shall be conducted by a researcher—

(i) who has expertise in long-term care; and

(ii) who has no financial or professional interests in the success of the methods or practices involved.

(3) REQUIREMENTS OF SMALL HOUSE NURSING HOMES.—Under the guidelines developed under paragraph (1), a small house nursing home that obtains proceeds from a direct loan made under this section shall—

(A) establish a self-directed model of care for residents that incorporates collaborative decisionmaking by residents and nursing assistants;

(B) provide for a universal worker approach to resident care (including care available from a nursing assistant, personal care, socialization services, meal preparation services, and laundry housekeeping services) that is organized to support and empower all staff to respond to the needs and desires of residents;

(C) provide for consistent staff assignments;

(D) consist of a physical environment designed as a home, rather than an institution—

(i) that contains residential style design elements and materials throughout the home that are similar to the residential style design elements and materials in the immediate surrounding community, including residential style design elements in areas that have mixed-zoning purposes, and do not use commercial and institutional elements and products (such as a nurses' station, medication carts, hospital or office type florescent

lighting, acoustical tile ceilings, institutional style railings and corner guards, and room numbering and labeling) unless mandated by authorities with appropriate jurisdiction over the small house nursing home;

(ii) which is designed to be a fully independent and disabled accessible house, apartment, or independent wing of an existing structure with not more than 25 residents in the house, apartment, or independent wing;

(iii) that contains a full private bathroom for each bedroom that, at a minimum, provides a toilet, sink, and accessible shower;

(iv) which has a life-safety rating that is sufficient to appropriately accommodate individuals who cannot self-evacuate; and

(v) in which the percentage of residents of the small house nursing home who are short stay rehabilitation residents does not exceed 20 percent at any time unless the small house nursing home is entirely devoted to providing rehabilitation services, except that a long-term resident returning to a small house nursing home after an acute episode and who is receiving rehabilitation services for which payment is made under the Medicare program under title XVIII of the Social Security Act shall not be counted toward such 20 percent limitation;

(E) provide for meals cooked in the small house nursing home and not prepared in a central kitchen and transported to the small house nursing home; and

(F) provide for the training of staff in accordance with paragraph (4).

(4) TRAINING OF STAFF.—

(A) IN GENERAL.—Under the guidelines under paragraph (1), a small house nursing home that obtains proceeds from a direct loan made under this section shall provide training for all staff involved in the operations of the small house nursing home concerning the philosophy, operations, and skills required to implement and maintain self-directed care, self-managed work teams, a noninstitutional approach to life and care in long-term care, appropriate safety and emergency skills, and other elements required for the successful operation of and outcomes in the small house nursing home.

(B) COLLABORATION.—

(i) IN GENERAL.—Training under subparagraph (A) shall be interdisciplinary and collaborative.

(ii) COLLECTIVE BARGAINING.—

(I) IN GENERAL.—In the case where staff involved in the operations of the small house nursing home are represented by a collective bargaining organization, the organization shall be provided an opportunity to fully participate in the development of a program for providing such training.

(II) PRIORITIZATION.—In the case where there is an existing jointly funded employer-labor training partnership, or where a training program is funded through collective bargaining, the small house nursing home shall prioritize the utilization of or collaboration with those existing training programs in meeting the requirements of this paragraph.

(C) AMOUNT.—Training under subparagraph (A) shall be not less than 120 hours for each universal worker employed by the small house nursing home and not less than 60 hours for each leadership and clinical team member employed by such small house nursing home. Such training shall be in addition to any other State training requirements and shall be completed for the majority of the staff prior to the initial start-up of the small house nursing home.

(5) MODEL GUIDELINE PRIORITIES FOR LOAN APPLICANTS.—An eligible borrower applying for a direct loan under this section shall be given priority in evaluation of loan applications in proportion to their compliance with 1 or more of the following model guidelines:

(A) RESIDENTIAL MODEL PRIORITIES.—Priority in evaluation for loan eligibility shall be given to small house nursing home models that—

(i) have private, single occupancy bedrooms that are shared only at the request of a resident to accommodate a spouse, partner, family member, or friend;

(ii) contain a living area where residents and staff may socialize, dine, and prepare food together that, at a minimum, provides a living room seating area, a dining area large enough for a single table serving all residents and not less than 2 staff members, and an open full kitchen;

(iii) contain ample natural light in each habitable space that is provided through exterior windows and other means, with window areas, exclusive of skylights and clearstories, being a minimum of 10 percent of the area of the room; and

(iv) have built-in safety features to allow all areas of the house to be accessible to the residents during the majority of the day and night.

(B) DIRECT CARE WORKER MODEL PRIORITIES.—Priority in evaluation for loan eligibility shall be given to small house nursing home model operators that have a legally binding collective bargaining agreement and a signed labor-management partnership agreement covering the planning and implementation of small house nursing homes. Where employees are represented by a labor organization, a signed labor management implementation agreement will be required.

(d) LOAN PROVISIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, each direct loan made under this section shall be subject to such terms, conditions, and covenants relating to repayment of principal, payment of interest, and other matters as may be established by the eligible lender.

(2) MAXIMUM LOAN AMOUNT.—The Secretary, in consultation with the Small House Advisory Panel, shall determine the maximum amount of any direct loan made under this section.

(3) RATE OF INTEREST.—A direct loan made under this section shall bear interest at an annual rate of not more than 3 percent, or as determined by the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2009 through 2013. Amounts appropriated under this subsection shall be available until expended.

(f) TERMINATION.—The program shall terminate, and no loan may be made under this section, on or after the date that is 25 years after the date on which amounts are initially appropriated under subsection (e).

SEC. 3. REPORT.

Not later than 5 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a report on the small house nursing home loan program established under section 2(a). Such report shall include information on—

(1) the use of direct loans made under the program to establish, renovate, and construct small house nursing homes that meet the requirements of section 2;

(2) the quality of health care, quality of life, emotional well-being, ability to perform functions of daily living, and other outcomes found for residents of small house nursing homes, as compared to such outcomes found for residents of traditional nursing homes; and

(3) staff wages, retention, and absenteeism rates, measures of staff satisfaction, and workload and staffing levels for small house nursing homes, as compared to traditional nursing homes.

By Mr. SPECTER:

S. 3733. A bill to require the Federal Energy Regulatory Commission to hold at least 1 public hearing before issuance of a permit affecting public or private land use in a locality; to the Committee on Energy and Natural Resources.

Mr. SPECTER. Mr. President, I seek recognition to speak on legislation I am introducing that will require the Federal Energy Regulatory Commission to hold at least one public hearing before issuance of a permit affecting public or private land use in a locality.

Increasing demand for electricity throughout the Northeast is putting a strain on energy infrastructure in my state, necessitating new transmission lines and natural gas pipelines and the expansion of existing ones. In Southwestern and Northeast Pennsylvania transmission line expansions are planned over hundreds of miles of private property, while in the Southeast natural gas pipeline expansions are underway.

There is no doubt these projects can be invasive, and rarely do they fail to be controversial. I make a point of touching all of Pennsylvania's 67 counties each year. In traveling Pennsylvania this fall I heard a lot of complaints from constituents who oppose these infrastructure projects, and who felt their concerns were being ignored by the energy companies and by FERC.

I realize there will always be some opposition to large infrastructure projects. What is unacceptable, however, is for the voices of Pennsylvanians to be ignored. It may be the case that these projects are necessary to meet increased energy demand. Nonetheless, the Federal Energy Regulatory Commission must seriously consider and evaluate local concerns in a sensitive manner.

To ensure citizens throughout the commonwealth have a voice in the development of energy infrastructure, my legislation will mandate that FERC hold an open hearing in the affected communities. State Public Utility Commissions, who have a great say in these matters, are beyond Congress' reach. But where the Federal Energy Regulatory Commission is involved we can take steps to ensure that our constituents' concerns receive due consideration. Holding a hearing may not lead to all sides agreeing on the proper route forward, but at the very least my Pennsylvania constituents will come away with the satisfaction of having publicly aired their grievances.

By Ms. LANDRIEU:

S. 3735. A bill to amend the Internal Revenue Code of 1986 to provide for the eligibility of computer technology and equipment development businesses for enterprise zone incentives; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, I come to the floor today to speak on behalf of a program which I believe has been extremely helpful in helping

rural/urban communities in my state of Louisiana. I would also like to discuss a commonsense improvement to the program which I believe will allow these and other communities nationwide to be at the cutting edge of 21st century innovation and research. In particular, to help spur economic development in distressed communities, the Congress enacted the Empowerment Zone and Enterprise Community, EZ and EC, Program in 1993. In 2000, the Community Renewal Tax Relief Act further expanded this initiative by authorizing 40 Renewal Communities, RCs, and 9 more EZs. Overall, the RC/EZ/EC Initiative provides these designated communities with tax incentives, grants, loans, and technical assistance to encourage investment in communities that have experienced severe economic decline. According to the U.S. Department of Housing and Urban Development, HUD, which oversees the RC and EZ program, RC tax incentives are worth approximately $5.6 billion to eligible businesses of all sizes in Renewal Communities. EZ tax incentives are worth approximately $5.3 billion to small and large businesses in Empowerment Zones. In general, the tax incentives encourage businesses to open, expand, and to hire local residents. The administrative leaders of each Renewal Community and Empowerment Zone work closely with the Federal Government, business, and local community representatives to implement strategic plans to improve social/economic conditions throughout the designated areas.

As I mentioned, this program is of particular interest to Louisiana as we have two Urban Renewal Communities, in New Orleans and Ouachita Parish, and also have two Rural Renewal Communities, in central Louisiana and in northern Louisiana. These designations have been extremely helpful in attracting businesses to these areas of my state and in encouraging existing businesses to expand their operations. However, the designations are set to terminate in December 31, 2009. I remain committed to work with my Senate colleagues next year to update and reauthorize such programs as this program. That is because this program helps distressed communities nationwide and is a key engine to spur public-private partnerships in rural/urban areas.

While we often think of technology companies locating in areas such as Silicon Valley, California or the Research Triangle in North Carolina, Congress should not forget the role that rural small businesses and universities play in fostering innovation and development. In Louisiana, we have multiple universities participating in these cutting edge research programs and collaborating with local small businesses. Louisiana Technical University in Ruston, Louisiana, for example has grown into a leader in scientific research at a crucial time for the region. This is because the Barksdale Air Force base located in Shreveport, which is 70 miles from Ruston, is looking to secure the permanent Cyber Command. This command would protect the United States from cyber warfare. All of the universities, colleges, and parishes in this area, including the University of Louisiana—Monroe, Grambling State University, and Louisiana State University—Shreveport are collaborating on securing this command, which could mean thousands of jobs for the region. So big cities are not the only areas in the country that have growing technology sectors—rural communities also have these industries and would benefit from this commonsense correction to the program. Many of these rural communities are located in RC areas so it is important to support this program.

In the next Congress, as I mentioned, we will work to reauthorize the RC/EZ program. As we do this, I believe that, among other corrections, we must address one glaring problem with these programs. That is the reason why I am filing this legislation today as it makes an important correction to this program. I am pleased that my colleague, Congressman RODNEY ALEXANDER is introducing the companion bill in the House of Representatives. All three programs share the definition for a ''qualified business'' used for an EZ Business, which is Section 1397C of the Internal Revenue Code. For the EC and RC programs, this was legislated by Congress by the use of a substitution of ''Renewal Community'' or ''Enterprise Community'' for ''Empowerment Zone'' in the relevant section of the Internal Revenue Code, which is Section 1394(b)(2)(A) for the EC program and Section 1400G for the RC program. Under this definition, generally any trade or business can be a qualified business; however, there is an exception for a business that consists primarily to develop or hold intangibles for sale or license. This clear distinction between businesses that trade ''tangibles'' versus those that trade in ''intangibles'' seems to be made as the intent was to encourage quality, high-wage manufacturing jobs in these areas. Businesses that trade in ''intangibles'' include companies that develop such things as patents, formulas, processes, copyrights, literary/musical works. However, businesses which manufacture computer software and computer or peripheral equipment are also included in this group of category of businesses which trade in ''intangible'' products. I feel that this excludes an industry that provides high-wage, highly skilled jobs in communities which could most benefit from these types of employers. This apparent oversight from Congress seems to discourage software/technology companies from locating in these distressed communities and does not reflect the fact that many of our rural/urban have excellent infrastructure to support them. Lastly, as an original cosponsor of the America COMPETES Act of 2007, I know how essential it is to promote U.S. technology competitiveness and innovation. By allowing software/technology companies to locate or expand operations in RC/EZ/EC communities, this would promote U.S. competitiveness and fully realize the intent of the program—to spur economic development in these distressed areas.

To address this issue, the bill I am introducing today would clarify that companies which manufacture technology/software development are eligible for these RC/EZ incentives in taxable years after enactment of the bill, provided they meet other requirements for the RC/EZ program. In particular, Section 1397C(d)(4) of the Internal Revenue Code of 1986 is amended to specify that businesses that trade in ''intangibles'' are excluded, with the exception of computer and software development companies. I would highlight that we are not creating a new definition from scratch or making new rules for the Internal Revenue Code, instead the bill uses the definition for computer and software companies that already exists elsewhere in the Internal Revenue Code. This definition, Section 170(e)(6)(F)(i) of the Internal Revenue Code, includes the following industries: computer software (as defined in section 197(e)(3)(B)), computer or peripheral equipment (as defined by section 168(i)(2)(B)), and fiber optic cable related to computer use.

Furthermore, my staff has reviewed the CONGRESSIONAL RECORD and committee testimony since 1985 and could not find a clear Congressional intent to exclude software or technology development companies from the definition of a ''qualified business'' for this program. On the other hand, Congress specifically prohibited the following businesses: private or commercial golf courses, country clubs, massage parlors, hot tub facilities, suntan facilities, racetracks or other facilities used for gambling, and liquor stores. Despite this specificity in relation to what industries may/may not qualify, the law is silent on software/technology development companies. As I mentioned, this industry is simply caught up in an effort to not include companies that deal strictly in intellectual property, such as copyrights or patents. I believe that this warrants correction as we should not exclude industries that are key drivers of economic development and those which are also essential to U.S. competitiveness.

Let me give you another example of how the current setup of this program is really discouraging further job creation and economic development. As currently structured, the renewal community employment credit provides a 15 percent credit for the first $10,000 of wages per year paid to each renewal community employee. So a bar in a RC/EZ community would receive a tax credit for hiring another bartender but a software development company would currently not receive any incentive to hire another engineer. Not only

does this discourage technology companies from locating in these areas but it is a disincentive for students graduating from universities or colleges in RC/EZ areas. I do not have a specific problem with including bars or restaurants in this program as the hospitality sector is also important to Louisiana's economy. However, I believe that computer/software companies should be given the opportunity to take advantage of these benefits that are already available to other industries, provided they meet the other requirements for qualified businesses.

In closing, I would like to note that while I understand that this would allow businesses currently not eligible for the program to receive benefits moving forward, it is my sincere belief that this correction would follow congressional intent with the program. This is because, in my view, the bill would further improve the ability of the RC/EZ program to spur economic development in distressed areas. It would accomplish this goal by ensuring that high-wage, high technology industries are eligible to participate in the program. I urge my colleagues to support this commonsense legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY OF COMPUTER TECHNOLOGY AND EQUIPMENT DEVELOPMENT BUSINESSES FOR ENTERPRISE ZONE INCENTIVES.

(a) IN GENERAL.—Section 1397C(d)(4) of the Internal Revenue Code of 1986 (relating to treatment of business holding intangibles) is amended by inserting ''other than the development of any computer technology or equipment (as defined in section 170(e)(6)((F)(i))'' after ''license''.

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

SUBMITTED RESOLUTIONS

SENATE CONCURRERNT RESOLUTION 107—EXPRESSING THE SENSE OF CONGRESS REGARDING THE RIGHTS OF MEMBERS OF CONGRESS (OR ANY EMPLOYEE OF A MEMBER OF CONGRESS AUTHORIZED BY THAT MEMBER) TO LEAD TOURS OF THE UNITED STATES CAPITOL COMPLEX

Mr. BURR (for himself, Mr. NELSON of Nebraska, Mr. MARTINEZ, Mr. HARKIN, Mr. THUNE, Mr. NELSON of Florida, Mr. BUNNING, Mr. HATCH, Mr. INHOFE, and Mr. ENZI) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 107

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) Members of Congress (or any employee of a Member of Congress authorized by that Member) should not be prohibited, with or without prior notice to the Architect of the Capitol, the Chief Executive Officer for Visitor Services, or the Capitol Guide Service, from taking guests or visitors into the publicly accessible areas of the United States Capitol complex during normal business hours;

(2) nothing in this resolution shall be construed to affect the authority granted to employees of Members of Congress by the respective Members relating to the movement of such employees through the United States Capitol complex;

(3) at the direction of the Capitol Police Board or the fire marshal, the taking of guests or visitors into the publicly accessible areas of the United States Capitol complex by a Member of Congress (or any employee of a Member of Congress authorized by that Member) should be temporarily suspended or otherwise subject to restriction for safety or security reasons to the same extent as guided tours of the United States Capitol complex which are led by the Architect of the Capitol or the Capitol Guide Service; and

(4) nothing in this resolution shall be interpreted to contradict the Congressional staff-led tour policy that ensures that tours of the Capitol are conducted by staff members who have undergone mandatory life safety and historical accuracy training.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5699. Mr. SESSIONS submitted an amendment which was ordered to lie on the table.

SA 5700. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 7005, to amend the Internal Revenue Code of 1986 to provide alternative minimum tax relief for individuals for 2008; which was ordered to lie on the table.

SA 5701. Mr. ENSIGN (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill H.R. 7005, supra; which was ordered to lie on the table.

SA 5702. Mr. ENSIGN (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill H.R. 7321, to authorize financial assistance to eligible automobile manufacturers, and for other purposes; which was ordered to lie on the table.

SA 5703. Mr. CORKER submitted an amendment which was ordered to lie on the table.

SA 5704. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 7005, to amend the Internal Revenue Code of 1986 to provide alternative minimum tax relief for individuals for 2008; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5699. Mr. SESSIONS submitted an amendment which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. 22. REQUIREMENT FOR USE OF EMPLOYMENT ELIGIBILITY VERIFICATION.

(a) IN GENERAL.—Each employer, contractor, interested party, or other entity that hires any individual for employment in the United States and receives any type of Federal financial assistance under section 4 of this Act or under section 101(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), shall participate in the basic pilot program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(b) CONFORMING AMENDMENT.—Section 402(e) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) CERTAIN RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE.—Each employer, contractor, interested party, or other entity that receives any type of Federal financial assistance under section 4 of the Auto Industry Financing and Restructuring Act or under section 101(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), shall elect to participate in the basic pilot program described in section 403(a).''.

SA 5700. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 7005, to amend the Internal Revenue Code of 1986 to provide alternative minimum tax relief for individuals for 2008; which was ordered to lie on the table; as follows:

Strike section 18.

SA 5701. Mr. ENSIGN (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill H.R. 7005, to amend the Internal Revenue Code of 1986 to provide alternative minimum tax relief for individuals for 2008; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

SECTION 1. BANKRUPTCY FILING REQUIRED.

The Secretary of the Treasury, in accordance with sections 2, 3, and 4, shall provide financial assistance to any eligible automobile manufacturer that has filed for bankruptcy protection under chapter 11 of title 11, United States Code, during the 12-month period following the date of enactment of this Act.

SEC. 2. DEBTOR IN POSSESSION FINANCING PROVIDED.

(a) AUTHORITY.—The Secretary of the Treasury shall provide debtor-in-possession financing, on a direct or guaranteed basis, to any eligible automobile manufacturer that has filed for bankruptcy protection under chapter 11 of title 11, United States Code, during the 12-month period following the date of enactment of this Act, in accordance with subsection (b). Such financing shall be subject to such terms and conditions as the Secretary of the Treasury determines appropriate for purposes of this Act.

(b) FUNDING.—

(1) FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—Such sums are appropriated to the Secretary of the Treasury as are necessary for the purpose of providing not more than $25,000,000,000 in financial assistance under this Act. The Secretary of Energy shall make available to the Secretary of the Treasury $7,510,000,000 of funds made available under section 129 of division A of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, relating to funding for the manufacture of advanced technology vehicles, which shall reduce the appropriation under this paragraph.

(B) CONTINUING APPLICATION PROCESS.—No provision of this section shall be construed as prohibiting or limiting the Secretary of Energy from processing applications for

loans under section 136 of the Energy Independence and Security Act of 2007.

(2) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Energy, sums as may be necessary for the purpose of replenishing the funds made available to the Secretary of the Treasury under subsection (a).

SEC. 3. FEDERAL GUARANTEE OF WARRANTIES.

During the period in which any eligible automobile manufacturer is subject to the jurisdiction of the bankruptcy court pursuant to a filing for bankruptcy protection under title 11, United States Code, the Federal Government shall provide a guarantee, backed by the full faith and credit of the United States, of any warranty on any new vehicle offered by the eligible automobile manufacturer, on terms and conditions that are substantially similar to those offered by the eligible automobile manufacturer prior to filing for bankruptcy protection, and in accordance with such procedures as the Secretary of the Treasury determines are appropriate for purposes of this Act.

SEC. 4. OTHER INTERESTS SUBORDINATED.

Any other obligation of an eligible automobile manufacturer that receives a loan or other financial assistance under this Act shall be subordinate to such loan or assistance, and such loan or assistance shall be senior and prior to all other obligations, liabilities, and debts of the eligible automobile manufacturer, and such eligible automobile manufacturer shall provide to the Government, all available security and collateral against which the loans under this Act shall be secured.

SEC. 5. REGULATIONS REQUIRED.

The Secretary of the Treasury shall issue such rules, standards, and guidelines as may be necessary to carry out this Act, and may utilize the services of or contract with private entities, as necessary to provide the guarantee under section 3.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Treasury, such amounts as are necessary to carry out section 3 of this Act, including administrative costs to the Secretary of the Treasury.

SEC. 7. DEFINITIONS.

As used in this Act, the term ''eligible automobile manufacturer'' means an automobile manufacturer that submitted a plan to the Congress on December 2, 2008.

SEC. 8. EMERGENCY DESIGNATION.

Amounts provided by this Act are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SA 5702. Mr. ENSIGN (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill H.R. 7321, to authorize financial assistance to eligible automobile manufacturers, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

SECTION 1. BANKRUPTCY FILING REQUIRED.

The Secretary of the Treasury, in accordance with sections 2, 3, and 4, shall provide financial assistance to any eligible automobile manufacturer that has filed for bankruptcy protection under chapter 11 of title 11, United States Code, during the 12-month period following the date of enactment of this Act.

SEC. 2. DEBTOR IN POSSESSION FINANCING PROVIDED.

(a) AUTHORITY.—The Secretary of the Treasury shall provide debtor-in-possession financing, on a direct or guaranteed basis, to any eligible automobile manufacturer that has filed for bankruptcy protection under chapter 11 of title 11, United States Code, during the 12-month period following the date of enactment of this Act, in accordance with subsection (b). Such financing shall be subject to such terms and conditions as the Secretary of the Treasury determines appropriate for purposes of this Act.

(b) FUNDING.—

(1) FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—Such sums are appropriated to the Secretary of the Treasury as are necessary for the purpose of providing not more than $25,000,000,000 in financial assistance under this Act. The Secretary of Energy shall make available to the Secretary of the Treasury $7,510,000,000 of funds made available under section 129 of division A of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, relating to funding for the manufacture of advanced technology vehicles, which shall reduce the appropriation under this paragraph.

(B) CONTINUING APPLICATION PROCESS.—No provision of this section shall be construed as prohibiting or limiting the Secretary of Energy from processing applications for loans under section 136 of the Energy Independence and Security Act of 2007.

(2) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Energy, sums as may be necessary for the purpose of replenishing the funds made available to the Secretary of the Treasury under subsection (a).

SEC. 3. FEDERAL GUARANTEE OF WARRANTIES.

During the period in which any eligible automobile manufacturer is subject to the jurisdiction of the bankruptcy court pursuant to a filing for bankruptcy protection under title 11, United States Code, the Federal Government shall provide a guarantee, backed by the full faith and credit of the United States, of any warranty on any new vehicle offered by the eligible automobile manufacturer, on terms and conditions that are substantially similar to those offered by the eligible automobile manufacturer prior to filing for bankruptcy protection, and in accordance with such procedures as the Secretary of the Treasury determines are appropriate for purposes of this Act.

SEC. 4. OTHER INTERESTS SUBORDINATED.

Any other obligation of an eligible automobile manufacturer that receives a loan or other financial assistance under this Act shall be subordinate to such loan or assistance, and such loan or assistance shall be senior and prior to all other obligations, liabilities, and debts of the eligible automobile manufacturer, and such eligible automobile manufacturer shall provide to the Government, all available security and collateral against which the loans under this Act shall be secured.

SEC. 5. REGULATIONS REQUIRED.

The Secretary of the Treasury shall issue such rules, standards, and guidelines as may be necessary to carry out this Act, and may utilize the services of or contract with private entities, as necessary to provide the guarantee under section 3.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Treasury, such amounts as are necessary to carry out section 3 of this Act, including administrative costs to the Secretary of the Treasury.

SEC. 7. DEFINITIONS.

As used in this Act, the term ''eligible automobile manufacturer'' means an automobile manufacturer that submitted a plan to the Congress on December 2, 2008.

SEC. 8. EMERGENCY DESIGNATION.

Amounts provided by this Act are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SA 5703. Mr. CORKER submitted an amendment which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADDITIONAL REQUIREMENTS.

(a) LOAN CONDITIONS.—

(1) IN GENERAL.—As a condition of receiving financial assistance under this Act, each eligible automobile manufacturer shall comply with the following conditions, including entering into new agreements or contracts or modifying any agreement or contract, notwithstanding any other provision of law (including the Employee Retirement Income Security Act of 1974, and collective bargaining agreements and contracts of employment), as required to meet such conditions:

(A) No eligible automobile manufacturer may receive a loan or other assistance under this Act, unless such manufacturer reduces its outstanding unsecured indebtedness (other than with respect to pension and employee benefits obligations) by not less than two thirds, through a debt for equity exchange.

(B) Notwithstanding paragraph (2), for the period beginning not later than March 31, 2009 and ending on the termination date applicable under such paragraph, the eligible automobile manufacturer shall—

(i) reduce the total amount of compensation, including wages and benefits, paid to employees of the manufacturer so that the average of such total amount, per hour and per person, is an amount that is equal to the average total amount of such compensation, as certified by the Secretary of Labor, paid per hour and per person to employees of Nissan Motor Company, Toyota Motor Corporation, or American Honda Motor Company whose site of employment is in the United States; and

(ii) ensure that the work rules that apply to the employees of the manufacturer are on par with the work rules for the employees of Nissan Motor Company, Toyota Motor Corporation, or American Honda Motor Company whose site of employment is in the United States.

(C) Not less than one-half of the value of each payment or contribution made by the eligible automobile manufacturer to the account of the voluntary employees beneficiary association (or similar account) of a labor organization representing the employees of the manufacturer shall be made in the form of the stock of the manufacturer, and the total value of any such payment or contribution shall not exceed the amount of any such payment or contribution that was required for such time period under the collective bargaining agreement that applied as of the day before the date of enactment of this Act.

(D) The eligible automobile manufacturer shall immediately eliminate the payment of any compensation or benefits to employees of the manufacturer who have been fired, laid off, furloughed, or idled, other than customary severance pay.

(E) The eligible automobile manufacturer shall agree to the requirements of subsection (b).

(2) DURATION.—Each eligible automobile manufacturer that has received a loan or other assistance under this Act shall comply with the requirements of subparagraphs (A) through (E) of paragraph (1) during the period beginning on the date on which the loan

or assistance is approved and ending on the date on which the manufacturer has paid the full amount of the obligation under the loan, including any applicable interest.

(3) APPLICABILITY.—The requirements of paragraph (1) shall apply to each eligible automobile manufacturer that receives any financial assistance under this Act.

(b) PENALTY FOR NONCOMPLIANCE.—

(1) REPAYMENT OR BANKRUPTCY.—The outstanding obligations of a loan or other financial assistance made under this Act shall become due, and the eligible automobile manufacturer that received such loan or financial assistance shall immediately repay the full amount of such obligations to the Secretary or, if unable to make such full repayment, immediately file for bankruptcy under chapter 11 of title 11, United States Code, if—

(A) by March 15, 2009, an eligible automobile manufacturer that received a loan or other assistance under this Act has not implemented and fully carried out the requirements of subsection (a)(1)(A) in a long-term and sustainable manner, as determined by the Secretary; or

(B) by March 31, 2009, and during the period of applicability described in subsection (a)(2), the manufacturer fails to comply with the requirements of subparagraphs (B) through (E) of subsection (a)(1).

(2) DEPOSIT OF FUNDS IN TREASURY.—All funds from an eligible automobile manufacturer received under paragraph (1) shall be deposited in the Treasury of the United States.

SA 5704. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 7005, to amend the Internal Revenue Code of 1986 to provide alternative minimum tax relief for individuals for 2008; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Auto Industry Financing and Restructuring Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Presidential designation.
Sec. 4. Bridge financing.
Sec. 5. Restructuring progress assessment.
Sec. 6. Submission of plans.
Sec. 7. Financing for restructuring.
Sec. 8. Disapproval and call of loan.
Sec. 9. Allocation.
Sec. 10. Funding.
Sec. 11. Terms and conditions.
Sec. 12. Taxpayer protection.
Sec. 13. Oversight and audits.
Sec. 14. Automobile manufacturers' study on potential manufacturing of transit vehicles.
Sec. 15. Reporting and monitoring.
Sec. 16. Report to Congress on lack of progress toward achieving an acceptable negotiated plan.
Sec. 17. Submission of plan to Congress by the President's designee.
Sec. 18. Guarantee of leases of qualified transportation property.
Sec. 19. Coordination with other laws.
Sec. 20. Treatment of restructuring for purposes of applying limitations on net operating loss carryforwards and certain built-in losses.
Sec. 21. Emergency designation.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) A combination of factors, including errors in the business model of domestic automobile manufacturers, and emergency economic circumstances, has prevented the domestic automobile industry from securing credit from other sources, and has led to the possibility of the failure of the domestic automobile industry, which failure would have a systemic adverse effect on the economy.

(2) Therefore, action in the form of financial aid to the domestic automobile industry is necessary to stabilize the economy.

(b) PURPOSES.—The purposes of this Act are—

(1) to immediately provide authority and facilities to restore liquidity and stability to the domestic automobile industry in the United States; and

(2) to ensure that such authority and such facilities are used in a manner that—

(A) results in a viable and competitive domestic automobile industry that minimizes adverse effects on the environment;

(B) enhances the ability and the capacity of the domestic automobile industry to pursue the timely and aggressive production of energy-efficient advanced technology vehicles;

(C) preserves and promotes the jobs of American workers employed directly by the domestic automobile industry and in related industries;

(D) safeguards the ability of the domestic automobile industry to provide retirement and health care benefits for the industry's retirees and their dependents; and

(E) stimulates manufacturing and sales of automobiles produced by automobile manufacturers in the United States.

SEC. 3. PRESIDENTIAL DESIGNATION.

(a) DESIGNATION.—The President shall designate 1 or more officers from the Executive Branch having appropriate expertise in such areas as economic stabilization, financial aid to commerce and industry, financial restructuring, energy efficiency, and environmental protection (who shall hereinafter in this Act be collectively referred to as the ''President's designee'') to carry out the purposes of this Act, including the facilitation of restructuring necessary to achieve the long-term financial viability of domestic automobile manufacturers, who shall serve at the pleasure of the President.

(b) ADDITIONAL PERSONS.—The President or the President's designee may also employ, appoint, or contract with additional persons having such expertise as the President or the President's designee believes will assist the Government in carrying out the purposes of this Act.

(c) PARTICIPATION BY OTHER AGENCY PERSONNEL.—Other Federal agencies may provide, at the request of the President's designee, staff on detail from such agencies for purposes of carrying out this Act.

SEC. 4. BRIDGE FINANCING.

(a) IN GENERAL.—The President's designee shall authorize and direct the disbursement of bridge loans or enter into commitments for lines of credit to each automobile manufacturer that submitted a plan to the Congress on December 2, 2008 (hereafter in this Act referred to as an ''eligible automobile manufacturer''), and has submitted a request for such loan or commitment.

(b) AVAILABILITY OF FUNDS.—All funds that are available pursuant to section 10 to provide bridge financing or commitments for lines of credit to eligible automobile manufacturers, after taking into account the reservation of funds under section 10(a)(2), shall be used for the purposes described in section 10(a). No new funds shall be available to any eligible automobile manufacturer for the purposes of this section after the date on which the President's designee has approved a restructuring plan under section 6 for such eligible automobile manufacturer.

(c) AMOUNT OF ASSISTANCE.—The President's designee shall authorize bridge loans or commitments for lines of credit to each eligible automobile manufacturer in an amount that is intended to facilitate the continued operations of the eligible automobile manufacturer and to prevent the failure of the eligible automobile manufacturer, consistent with the plan submitted on December 2, 2008, and subject to available funds.

(d) ALLOCATION.—The President's designee shall authorize the disbursements or commitments under this section in accordance with the allocation priorities set forth in subsections (a) and (b) of section 9.

SEC. 5. RESTRUCTURING PROGRESS ASSESSMENT.

(a) ESTABLISHMENT OF MEASURES FOR ASSESSING PROGRESS.—Not later than January 1, 2009, the President's designee shall determine appropriate measures for assessing the progress of each eligible automobile manufacturer toward transforming the plan submitted by such manufacturer to the Congress on December 2, 2008, into the restructuring plan to be submitted under section 6(b).

(b) EVALUATION OF PROGRESS ON BASIS OF RESTRUCTURING PROGRESS ASSESSMENT MEASURES.—

(1) IN GENERAL.—The President's designee shall evaluate the progress of each eligible automobile manufacturer toward the development of a restructuring plan, on the basis of the restructuring progress assessment measures established under this section for such manufacturer.

(2) TIMING.—Each evaluation required under paragraph (1) for any eligible automobile manufacturer shall be conducted at the end of the 45-day period beginning on the date on which the restructuring progress assessment measures were established by the President's designee for such eligible automobile manufacturer.

SEC. 6. SUBMISSION OF PLANS.

(a) NEGOTIATED PLANS.—

(1) FACILITATION.—

(A) IN GENERAL.—Beginning on the date of the enactment of this Act, the President's designee shall seek to facilitate agreement on any restructuring plan to achieve and sustain the long-term viability, international competitiveness, and energy efficiency of an eligible automobile manufacturer, negotiated and agreed to by representatives of interested parties (in this Act referred to as a ''negotiated plan'') with respect to any eligible automobile manufacturer.

(B) INTERESTED PARTIES.—For purposes of this section, the term ''interested party'' shall be construed broadly so as to include all persons who have a direct financial interest in a particular automobile manufacturer, including—

(i) employees and retirees of the eligible automobile manufacturer;

(ii) trade unions;

(iii) creditors;

(iv) suppliers;

(v) automobile dealers; and

(vi) shareholders.

(2) ACTIONS OF THE PRESIDENT'S DESIGNEE.—

(A) IN GENERAL.—For the purpose of achieving a negotiated plan, the President's designee may convene, chair, and conduct formal and informal meetings, discussions, and consultations, as appropriate, with interested parties of an eligible automobile manufacturer.

(B) CLARIFICATION.—The Federal Advisory Committee Act shall not apply with respect

to any of the activities conducted or taken by the President's designee pursuant to this Act.

(b) RESTRUCTURING PLAN.—Not later than March 31, 2009, each eligible automobile manufacturer shall submit to the President's designee a restructuring plan to achieve and sustain the long-term viability, international competitiveness, and energy efficiency of the eligible automobile manufacturer (in this Act referred to as the ''restructuring plan'') in accordance with this section. The President's designee shall approve the restructuring plan if the President's designee determines that the plan will result in—

(1) the repayment of all Government-provided financing, consistent with the terms specified in section 11, or otherwise agreed to;

(2) the ability—

(A) to comply with applicable Federal fuel efficiency and emissions requirements;

(B) to commence domestic manufacturing of advanced technology vehicles, as described in section 136 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 42 U.S.C. 17013); and

(C) to produce new and existing products and capacity (including as described in section 14);

(3) the achievement of a positive net present value, using reasonable assumptions and taking into account all existing and projected future costs, including repayment of any financial assistance provided pursuant to this Act;

(4) efforts to rationalize costs, capitalization, and capacity with respect to the manufacturing workforce, suppliers, and dealerships of the eligible automobile manufacturer;

(5) proposals to restructure existing debt, including, where appropriate, the conversion of debt to equity, to improve the ability of the eligible automobile manufacturer to raise private capital; and

(6) a product mix and cost structure that is competitive in the United States marketplace.

(c) EXTENSION OF NEGOTIATIONS AND PLAN DEADLINE.—Notwithstanding the time limitations in subsection (b), the President's designee, upon making a determination that the interested parties are negotiating in good faith, are making significant progress, and that an additional period of time would likely facilitate agreement on a negotiated plan, and upon notification of the Congress, may extend for not longer than 30 additional days the negotiation period under subsection (b).

SEC. 7. FINANCING FOR RESTRUCTURING.

Upon approval by the President's designee of a restructuring plan, the President's designee may provide financial assistance to an eligible automobile manufacturer to implement the restructuring plan.

SEC. 8. DISAPPROVAL AND CALL OF LOAN.

If the President's designee has not approved the restructuring plan at the expiration of the period provided in section 6 for submission and approval of the restructuring plan, the President's designee shall call the loan or cancel the commitment within 30 days, unless a restructuring plan is approved within that period.

SEC. 9. ALLOCATION.

(a) PRIORITIZING ALLOCATION.—The President's designee shall prioritize allocation of the provision of financial assistance under this Act to any eligible automobile manufacturer, based on—

(1) the necessity of the financial assistance for the continued operation of the eligible automobile manufacturer;

(2) the potential impact of the failure of the eligible automobile manufacturer on the United States economy; and

(3) the ability to utilize the financial assistance optimally to satisfy the operational and long-term restructuring requirements of the eligible automobile manufacturer.

(b) ORDER OF PRIORITY; SECTION 4.—For purposes of allocating bridge loans or commitments pursuant to section 4, the President's designee shall prioritize the considerations set forth in subsection (a) in the following order: paragraph (1), paragraph (2), and paragraph (3).

(c) ORDER OF PRIORITY; SECTION 7.—For purposes of allocating financial assistance for restructuring pursuant to section 7, the President's designee shall prioritize the considerations set forth in subsection (a) in the following order: paragraph (3), paragraph (2), and paragraph (1).

SEC. 10. FUNDING.

(a) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Such sums are appropriated as are necessary for the purpose of providing funds to support up to $14,000,000,000 in loans under this Act. The Secretary of Energy shall make available to the President's designee $7,010,000,000 of funds made available under section 129 of division A of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, relating to funding for the manufacture of advanced technology vehicles, which shall reduce the appropriation under this paragraph.

(2) RESERVATION FOR CERTAIN PURPOSES.—The Secretary of Energy shall reserve $500,000,000 of the amounts made available under paragraph (1) for purposes of section 136 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 42 U.S.C. 17013).

(3) CONTINUING APPLICATION PROCESS.—No provision of this section shall be construed as prohibiting or limiting the Secretary of Energy from processing applications for loans under section 136 of the Energy Independence and Security Act of 2007.

(b) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Energy, sums as may be necessary for the purpose of replenishing the funds made available to the President's designee under subsection (a)(1).

SEC. 11. TERMS AND CONDITIONS.

(a) DURATION.—The duration of any loan made under this Act shall be 7 years, or such longer period as the President's designee may determine with respect to such loan.

(b) RATE OF INTEREST; TIMING OF PAYMENTS.—

(1) RATE OF INTEREST.—The annual rate of interest for a loan under this Act shall be—

(A) 5 percent during the 5-year period beginning on the date on which the President's designee disburses the loan; and

(B) 9 percent after the end of the period described in subparagraph (A).

(2) TIMING OF PAYMENTS.—Payments of interest on loans under this Act shall be made semiannually.

(c) NO PREPAYMENT PENALTY.—A loan made under this Act shall be prepayable without penalty at any time.

(d) INFORMATION ACCESS.—As a condition for the receipt of any financial assistance made under this Act, an eligible automobile manufacturer shall agree—

(1) to allow the President's designee to examine any books, papers, records, or other data of the eligible automobile manufacturer, and those of any subsidiary, affiliate, or entity holding an ownership interest of 50 percent or more of such automobile manufacturer, that may be relevant to the financial assistance, including compliance with the terms of a loan or any conditions imposed under this Act; and

(2) to provide in a timely manner any information requested by the President's designee, including requiring any officer or employee of the eligible automobile manufacturer, any subsidiary, affiliate, or entity referred to in paragraph (1) with respect to such manufacturer, or any person having possession, custody, or care of the reports and records required under paragraph (1), to appear before the President's designee at a time and place requested and to provide such books, papers, records, or other data, as requested, as may be relevant or material.

(e) OVERSIGHT OF TRANSACTIONS AND FINANCIAL CONDITION.—

(1) DUTY TO INFORM.—During the period in which any loan extended under this Act remains outstanding, the eligible automobile manufacturer which received such loan shall promptly inform the President's designee of—

(A) any asset sale, investment, contract, commitment, or other transaction proposed to be entered into by such eligible automobile manufacturer that has a value in excess of $100,000,000; and

(B) any other material change in the financial condition of such eligible automobile manufacturer.

(2) AUTHORITY OF THE PRESIDENT'S DESIGNEE.—During the period in which any loan extended under this Act remains outstanding, the President's designee may—

(A) review any asset sale, investment, contract, commitment, or other transaction described in paragraph (1); and

(B) prohibit the eligible automobile manufacturer which received the loan from consummating any such proposed sale, investment, contract, commitment, or other transaction, if the President's designee determines that consummation of such transaction would be inconsistent with or detrimental to the long-term viability of the eligible automobile manufacturer.

(3) PROCEDURES.—The President's designee may establish procedures for conducting any review under this subsection.

(f) CONSEQUENCES FOR FAILURE TO COMPLY.—The terms of any financial assistance made under this Act shall provide that if—

(1) an evaluation by the President's designee under section 5(b) demonstrates that the eligible automobile manufacturer which received the financial assistance has failed to make adequate progress towards meeting the restructuring progress assessment measures established by the President's designee under section 5(a) with respect to such recipient;

(2) after March 31, 2009, the eligible automobile manufacturer which received the financial assistance fails to submit an acceptable restructuring plan under section 6(b), or fails to comply with any conditions or requirement applicable under this Act or applicable Federal fuel efficiency and emissions requirements; or

(3) after a restructuring plan of an eligible automobile manufacturer has been approved by the President's designee, the auto manufacturer fails to make adequate progress in the implementation of the plan, as determined by the President's designee,

the repayment of any loan may be accelerated to such earlier date or dates as the President's designee may determine and any other financial assistance may be cancelled by the President's designee.

SEC. 12. TAXPAYER PROTECTION.

(a) WARRANTS.—

(1) IN GENERAL.—The President's designee may not provide any loan under this Act, unless the President's designee, or such department or agency as is designated for such purpose by the President, receives from the eligible automobile manufacturer—

(A) in the case of an eligible automobile manufacturer, the securities of which are

traded on a national securities exchange, a warrant giving the right to the President's designee to receive nonvoting common stock or preferred stock in such eligible automobile manufacturer, or voting stock, with respect to which the President's designee agrees not to exercise voting power, as the President's designee determines appropriate; or

(B) in the case of an eligible automobile manufacturer other than one described in subparagraph (A), a warrant for common or preferred stock, or an instrument that is the economic equivalent of such a warrant in the holding company of the eligible automobile manufacturer, or any company that controls a majority stake in the eligible automobile manufacturer, as determined by the President's designee.

(2) AMOUNT.—

(A) IN GENERAL.—The warrants or instruments described in paragraph (1) shall have a value equal to 20 percent of the aggregate amount of all loans provided to the eligible automobile manufacturer under this Act. Such warrants or instruments shall entitle the Government to purchase—

(i) nonvoting common stock, up to a maximum amount of 20 percent of the issued and outstanding common stock of—

(I) the eligible automobile manufacturer; or

(II) in the case of an eligible automobile manufacturer, the securities of which are not traded on a national securities exchange, a holding company or company that controls a majority of the stock thereof (in this section referred to as the ''warrant common''); and

(ii) preferred stock having an aggregate liquidation preference equal to 20 percent of such aggregate loan amount, less the value of common stock available for purchase under the warrant common (in this section referred to as the ''warrant preferred'').

(B) COMMON STOCK WARRANT PRICE.—The exercise price on a warrant or instrument described in paragraph (1) shall be—

(i) the 15-day moving average, as of December 2, 2008, of the market price of the common stock of the eligible automobile manufacturer which received any loan under this Act; or

(ii) in the case of an eligible automobile manufacturer, the securities of which are not traded on a national securities exchange, the economic equivalent of the market price described in clause (i), as determined by the President's designee.

(C) TERMS OF PREFERRED STOCK WARRANT.—

(i) IN GENERAL.—The initial exercise price for the preferred stock warrant shall be $0.01 per share or such greater amount as the corporate charter may require as the par value per share of the warrant preferred. The Government shall have the right to immediately exercise the warrants.

(ii) REDEMPTION.—The warrant preferred may be redeemed at any time after exercise of the preferred stock warrant at 100 percent of its issue price, plus any accrued and unpaid dividends.

(iii) OTHER TERMS AND CONDITIONS.—Other terms and conditions of the warrant preferred shall be determined by the President's designee to protect the interests of taxpayers.

(3) APPLICATION OF OTHER PROVISIONS OF LAW.—Except as otherwise provided in this section, the requirements for the purchase of warrants under section 113(d)(2) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110-343) shall apply to any warrant or instrument described in paragraph (1), including the antidilution protection provisions therein.

(b) EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.—

(1) IN GENERAL.—During the period in which any financial assistance under this Act remains outstanding, the eligible automobile manufacturer which received such assistance shall be subject to—

(A) the standards established by the President's designee under paragraph (2); and

(B) the provisions of section 162(m)(5) of the Internal Revenue Code of 1986, as applicable.

(2) STANDARDS REQUIRED.—The President's designee shall require any eligible automobile manufacturer which received any financial assistance under this Act to meet appropriate standards for executive compensation and corporate governance.

(3) SPECIFIC REQUIREMENTS.—The standards established under paragraph (2) shall include—

(A) limits on compensation that exclude incentives for senior executive officers of an eligible automobile manufacturer which received assistance under this Act to take unnecessary and excessive risks that threaten the value of such manufacturer during the period that the loan is outstanding;

(B) a provision for the recovery by such automobile manufacturer of any bonus or incentive compensation paid to a senior executive officer based on statements of earnings, gains, or other criteria that are later found to be materially inaccurate;

(C) a prohibition on such automobile manufacturer making any golden parachute payment to a senior executive officer during the period that the loan is outstanding;

(D) a prohibition on such automobile manufacturer paying or accruing any bonus or incentive compensation during the period that the loan is outstanding to the 25 most highly-compensated employees; and

(E) a prohibition on any compensation plan that would encourage manipulation of such automobile manufacturer's reported earnings to enhance the compensation of any of its employees.

(4) DIVESTITURE.—During the period in which any financial assistance provided under this Act to any eligible automobile manufacturer is outstanding, the eligible automobile manufacturer may not own or lease any private passenger aircraft, or have any interest in such aircraft, except that such eligible automobile manufacturer shall not be treated as being in violation of this provision with respect to any aircraft or interest in any aircraft that was owned or held by the manufacturer immediately before receiving such assistance, as long as the recipient demonstrates to the satisfaction of the President's designee that all reasonable steps are being taken to sell or divest such aircraft or interest.

(5) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) SENIOR EXECUTIVE OFFICER.—The term ''senior executive officer'' means an individual who is 1 of the top 5 most highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

(B) GOLDEN PARACHUTE PAYMENT.—The term ''golden parachute payment'' means any payment to a senior executive officer for departure from a company for any reason, except for payments for services performed or benefits accrued.

(c) PROHIBITION ON PAYMENT OF DIVIDENDS.—Except with respect to obligations owed pursuant to law to any nonaffiliated party or any existing contract with any nonaffiliated party in effect as of December 2, 2008, no dividends or distributions of any kind, or the economic equivalent thereof (as determined by the President's designee), may be paid by any eligible automobile manufacturer which receives financial assistance under this Act, or any holding company or company that controls a majority stake in the eligible automobile manufacturer, while such financial assistance is outstanding.

(d) OTHER INTERESTS SUBORDINATED.—

(1) IN GENERAL.—In the case of an eligible automobile manufacturer which received a loan under this Act, to the extent permitted by the terms of any obligation, liability, or debt of the eligible automobile manufacturer in effect as of December 2, 2008, any other obligation of such eligible automobile manufacturer shall be subordinate to such loan, and such loan shall be senior and prior to all obligations, liabilities, and debts of the eligible automobile manufacturer, and such eligible automobile manufacturer shall provide to the Government, all available security and collateral against which the loans under this Act shall be secured.

(2) APPLICABILITY IN CERTAIN CASES.—In the case of an eligible automobile manufacturer referred to in paragraph (1), the securities of which are not traded on a national securities exchange, a loan under this Act to the eligible automobile manufacturer shall—

(A) be treated as a loan to any holding company of, or company that controls a majority stake in, the eligible automobile manufacturer; and

(B) be senior and prior to all obligations, liabilities, and debts of any such holding company or company that controls a majority stake in the eligible automobile manufacturer.

(e) ADDITIONAL TAXPAYER PROTECTIONS.—

(1) DISCHARGE.—A discharge under title 11, United States Code, shall not discharge an eligible automobile manufacturer, or any successor in interest thereto, from any debt for financial assistance received pursuant to this Act.

(2) EXEMPTION.—Any financial assistance provided to an eligible automobile manufacturer under this Act shall be exempt from the automatic stay established by section 362 of title 11, United States Code.

(3) INTERESTED PARTIES.—Notwithstanding any provision of title 11, United States Code, any interest in property or equity rights of the United States arising from financial assistance provided to an eligible automobile manufacturer under this Act shall remain unaffected by any plan of reorganization, except as the United States may agree to in writing.

SEC. 13. OVERSIGHT AND AUDITS.

(a) COMPTROLLER GENERAL OVERSIGHT.—

(1) SCOPE OF OVERSIGHT.—The Comptroller General of the United States shall conduct ongoing oversight of the activities and performance of the President's designee.

(2) CONDUCT AND ADMINISTRATION OF OVERSIGHT.—

(A) GAO PRESENCE.—The President's designee shall provide to the Comptroller General appropriate space and facilities for purposes of this subsection.

(B) ACCESS TO RECORDS.—To the extent otherwise consistent with law, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the President's designee, at such reasonable time as the Comptroller General may request. The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General deems appropriate.

(3) REPORTING.—The Comptroller General shall submit reports of findings under this

section to Congress, regularly and not less frequently than once every 60 days. The Comptroller General may also submit special reports under this subsection, as warranted by the findings of its oversight activities.

(b) SPECIAL INSPECTOR GENERAL.—It shall be the duty of the Special Inspector General established under section 121 of Public Law 110-343 to conduct, supervise, and coordinate audits and investigations of the President's designee in addition to the duties of the Special Inspector General under such section and for such purposes. The Special Inspector General shall also have the duties, responsibilities, and authorities of inspectors general under the Inspector General Act of 1978, including section 6 of such Act. In the event that the Office of the Special Inspector General is terminated, the Inspector General of the Department of the Treasury shall assume the responsibilities of the Special Inspector General under this subsection.

(c) ACCESS TO RECORDS OF BORROWERS BY GAO.—Notwithstanding any other provision of law, during the period in which any financial assistance provided under this Act is outstanding, the Comptroller General of the United States shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the eligible automobile manufacturer, and any subsidiary, affiliate, or entity holding an ownership interest of 50 percent or more of such eligible automobile manufacturer (collectively referred to in this section as ''related entities''), and to any officer, director, or other agent or representative of the eligible automobile manufacturer and its related entities, at such reasonable times as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General deems appropriate.

SEC. 14. AUTOMOBILE MANUFACTURERS' STUDY ON POTENTIAL MANUFACTURING OF TRANSIT VEHICLES.

(a) IN GENERAL.—Each eligible automobile manufacturer which receives financial assistance under this Act shall conduct an analysis of potential uses of any excess production capacity (especially those of former sport utility vehicle producers) to make vehicles for sale to public transit agencies, including—

(1) the current and projected demand for bus and rail cars by American public transit agencies;

(2) the potential growth for both sales and supplies to such agencies in the short, medium, and long term;

(3) a description of existing ''Buy America'' provisions, and data provided by the Federal Transit Administration regarding the use or request of waivers from such provisions; and

(4) any recommendations as to whether such actions would result in a business line that makes sense for the automobile manufacturer.

(b) GAO REVIEW AND REPORT.—The Comptroller General of the United States shall review the analyses conducted under this section, and shall provide reports thereon to the Congress and the President's designee.

SEC. 15. REPORTING AND MONITORING.

(a) REPORTING ON CONSUMMATION OF LOANS.—The President's designee shall submit a report to the Congress on each bridge loan made under section 4 not later than 5 days after the date of the consummation of such loan.

(b) REPORTING ON RESTRUCTURING PROGRESS ASSESSMENT MEASURES.—The President's designee shall submit a report to the Congress on the restructuring progress assessment measures established for each manufacturer under section 5(a) not later than 10 days after establishing the restructuring progress assessment measures.

(c) REPORTING ON EVALUATIONS.—The President's designee shall submit a report to the Congress containing the detailed findings and conclusions of the President's designee in connection with the evaluation of an eligible automobile manufacturer under section 5(b).

(d) REPORTING ON CONSEQUENCES FOR FAILURE TO COMPLY.—The President's designee shall submit a report to the Congress on the exercise of a right under section 11(f) to accelerate indebtedness of an eligible automobile manufacturer under this Act or to cancel any other financial assistance provided to such eligible automobile manufacturer, and the facts and circumstances on which such exercise was based, before the end of the 10-day period beginning on the date of the exercise of the right.

(e) MONITORING.—The President's designee shall monitor the use of loan funds received by eligible automobile manufacturers under this Act, and shall report to Congress once every 90 days (beginning 30 days after the date of enactment of this Act) on the progress of the ability of the recipient of the loan to continue operations and proceed with restructuring processes that restore the financial viability of the recipient and promote environmental sustainability.

SEC. 16. REPORT TO CONGRESS ON LACK OF PROGRESS TOWARD ACHIEVING AN ACCEPTABLE NEGOTIATED PLAN.

(a) AUTHORITY TO FACILITATE A NEGOTIATED PLAN.—At any such time as the President's designee determines that action is necessary to avoid disruption to the economy or to achieve a negotiated plan, the President's designee shall submit to Congress a report outlining any additional powers and authorities necessary to facilitate the completion of a negotiated plan required under section 6.

(b) IMPEDIMENTS TO ACHIEVING NEGOTIATED PLANS.—If the President's designee determines, on the basis of an evaluation by the President's designee of the progress being made by an eligible automobile manufacturer toward meeting the restructuring progress assessment measures established under section 5, that adequate progress is not being made toward achieving a negotiated plan by March 31, 2009, the President's designee shall submit to Congress a report detailing the impediments to achievement of a negotiated plan by the eligible automobile manufacturer.

SEC. 17. SUBMISSION OF PLAN TO CONGRESS BY THE PRESIDENT'S DESIGNEE.

Upon submission of a report pursuant to section 16(b), the President's designee shall provide to Congress a plan that represents the judgement of the President's designee as to the steps necessary to achieve the long-term viability, international competitiveness, and energy efficiency of the eligible automobile manufacturer, consistent with the factors set forth in section 6(b), including through a negotiated plan, a plan to be implemented by legislation, or a reorganization pursuant to chapter 11 of title 11, United States Code.

SEC. 18. GUARANTEE OF LEASES OF QUALIFIED TRANSPORTATION PROPERTY.

(a) GUARANTEE.—Upon the request of a lessee of qualified transportation property, the President's designee shall serve as a guarantor with respect to all obligations of such lessee with respect to leases of such qualified transportation property. Such guarantee shall be on such terms and conditions as are determined by the President's designee, not later than 14 days after the date of enactment of this section.

(b) RECOUPMENT OF PAYMENT OF CLAIMS.—

(1) IN GENERAL.—Any claims under this section in excess of collateral held for the benefit of the President's designee shall be paid from the General Fund of the Treasury out of funds not otherwise appropriated.

(2) RECOUPMENT FEE.—Subsequent to any payment made under paragraph (1), the President's designee shall recoup amounts paid under paragraph (1) by establishing a fee that is sufficient to recoup the amount of the claim payment not later than 3 years after the date of such claim payment from any lessee or guarantor for whom the claim was paid or for whom a guarantee was issued.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''qualified transportation property'' means domestic property subject to a lease that was approved by the Federal Transit Administration prior to January 1, 2006; and

(2) the term ''guarantor'' includes, without limitation, any guarantor, surety, and payment undertaker.

SEC. 19. COORDINATION WITH OTHER LAWS.

(a) IN GENERAL.—No provision of this Act may be construed as altering, affecting, or superseding—

(1) the provisions of section 129 of division A of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, relating to funding for the manufacture of advanced technology vehicles; or

(2) any existing authority to provide financial assistance or liquidity for purposes of the day-to-day operations in the ordinary course of business or research and development.

(b) LIMITATION.—Except to provide bridge financing or to implement a restructuring plan pursuant to this Act, no funds from the United States Treasury may be used for the purpose of assisting an eligible automobile manufacturer to achieve financial viability or otherwise to avoid bankruptcy.

(c) AUTHORIZATION OF FISCAL YEAR 2009 COST OF LIVING SALARY ADJUSTMENT FOR JUSTICES AND JUDGES.—Pursuant to section 140 of Public Law 97–92, justices and judges of the United States are authorized during fiscal year 2009 to receive a salary adjustment in accordance with section 461 of title 28, United States Code.

(d) ANTITRUST PROVISIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (4), the antitrust laws shall not apply to meetings, discussions, or consultations among an eligible automobile manufacturer and its interested parties for the purpose of achieving a negotiated plan pursuant to section (6)(a)(2).

(2) EXCLUSIONS.—Paragraph (1) shall not apply with respect to price-fixing, allocating a market between competitors, monopolizing (or attempting to monopolize) a market, or boycotting.

(3) ANTITRUST AGENCY PARTICIPATION.—The Attorney General of the United States and the Federal Trade Commission shall, to the extent practicable, receive reasonable advance notice of, and be permitted to participate in, each meeting, discussion, or consultation described in paragraph (1).

(4) PRESERVATION OF ENFORCEMENT AUTHORITY.—Paragraph (1) shall not be construed to preclude the Attorney General of the United States or the Federal Trade Commission from bringing an enforcement action under the antitrust laws for injunctive relief.

(5) SUNSET.—Paragraph (1) shall apply only with respect to meetings, discussions, or consultations that occur within the 3-year period beginning on the date of the enactment of this Act.

(6) DEFINITION.—For purposes of this subsection, the term ''antitrust laws''—

(A) has the same meaning as in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45), to the extent that such section 5 applies to unfair methods of competition; and

(B) includes any provision of State law that is similar to the laws referred to in subparagraph (A).

SEC. 20. TREATMENT OF RESTRUCTURING FOR PURPOSES OF APPLYING LIMITATIONS ON NET OPERATING LOSS CARRYFORWARDS AND CERTAIN BUILT-IN LOSSES.

Section 382 of the Internal Revenue Code of 1986 shall not apply in the case of an ownership change resulting from this Act or pursuant to a restructuring plan approved under this Act.

SEC. 21. EMERGENCY DESIGNATION.

Amounts provided by this Act are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Thursday, December 11, 2008, at 10 a.m. to conduct a hearing entitled ''World at Risk: A Report from the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.''

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

UNITED STATES CAPITOL COMPLEX TOURS

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 107, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 107) expressing the sense of Congress regarding the rights of Members of Congress (or any employee of a Member of Congress authorized by that Member) to lead tours of the United States Capitol complex.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DURBIN. Madam President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 107) was agreed to, as follows:

S. CON. RES. 107

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) Members of Congress (or any employee of a Member of Congress authorized by that Member) should not be prohibited, with or without prior notice to the Architect of the Capitol, the Chief Executive Officer for Visitor Services, or the Capitol Guide Service, from taking guests or visitors into the publicly accessible areas of the United States Capitol complex during normal business hours;

(2) nothing in this resolution shall be construed to affect the authority granted to employees of Members of Congress by the respective Members relating to the movement of such employees through the United States Capitol complex;

(3) at the direction of the Capitol Police Board or the fire marshal, the taking of guests or visitors into the publicly accessible areas of the United States Capitol complex by a Member of Congress (or any employee of a Member of Congress authorized by that Member) should be temporarily suspended or otherwise subject to restriction for safety or security reasons to the same extent as guided tours of the United States Capitol complex which are led by the Architect of the Capitol or the Capitol Guide Service; and

(4) nothing in this resolution shall be interpreted to contradict the Congressional staff-led tour policy that ensures that tours of the Capitol are conducted by staff members who have undergone mandatory life safety and historical accuracy training.

CENTENNIAL OF UNION STATION, DISTRICT OF COLUMBIA

Mr. DURBIN. Madam President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration and the Senate now proceed to the consideration of S. Res. 664.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 664) celebrating the centennial of Union Station in Washington, District of Columbia.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 664) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 664

Whereas, on February 28, 1903, President Theodore Roosevelt signed into law the act entitled ''An Act to provide a union railroad station in the District of Columbia, and for other purposes'', and Daniel Burnham, a noted architect from Chicago, Illinois, was chosen to design the building;

Whereas, on October 27, 1907, Union Station officially opened at 6:50 a.m. when the Baltimore and Ohio Pittsburgh Express pulled in to the station;

Whereas the building was ultimately completed in 1908;

Whereas, in 1924, 5,000 cheering fans met the victorious Washington Nationals at Union Station after they defeated the Boston Red Sox to capture the American League pennant;

Whereas, in 1951, President Harry Truman dedicated the Presidential Suite at Union Station as a ''home away from home'' for members of the Armed Services;

Whereas, in 1968, in preparation for the bicentennial of the United States, the decision was made to transform the building into a National Visitor Center;

Whereas Congress then passed the Union Station Redevelopment Act of 1981 (Public Law 97–125; 95 Stat. 1667) to return Union Station to its original use as a transportation center;

Whereas, in 1983, the Union Station Redevelopment Corporation was created to oversee the development of the station into an operating railroad station, to restore the architectural and historical elements of the structure, to explore collaboration with the private sector in the commercial development of the station, and to withdraw the Federal Government from active management of the station;

Whereas the renovation and restoration of Union Station began on August 13, 1986, with the ringing of an old train bell;

Whereas the restoration of Union Station was the largest public-private restoration project accomplished in the United States;

Whereas the restoration took 2 years and the grand reopening was held on September 29, 1988;

Whereas, in 2008, Union Station includes more than 210,000 square feet of retail space, including 50,000 square feet of restaurant space;

Whereas Union Station is the corporate headquarters for Amtrak and contains 200,000 square feet of Amtrak passenger and baggage facilities;

Whereas 32,000,000 people visit Union Station annually; and

Whereas Union Station is the most visited tourist destination in Washington, District of Columbia: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the centennial of Union Station in Washington, District of Columbia;

(2) applauds the efforts of the people who worked to preserve this national treasure; and

(3) encourages the people of the United States to continue to visit and learn about Union Station and its storied history.

NATIONAL TEEN DATING VIOLENCE AWARENESS AND PREVENTION WEEK

NATIONAL MENTORING MONTH

Mr. DURBIN. Madam President, I ask unanimous consent that the Judiciary Committee be discharged and the Senate now proceed en bloc to the consideration of S. Res. 710 and S. Res. 728.

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

Mr. DURBIN. Madam President, I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table en bloc.

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

The resolutions (S. Res. 710 and S. Res. 728) were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 710

Whereas 1 in 11 adolescents reports being a victim of physical dating violence;

Whereas dating violence occurs more frequently among black students (13.9 percent) than among Hispanic (9.3 percent) or white (7 percent) students;

Whereas 1 in 5 teenagers in a serious relationship reports having been hit, slapped, or pushed by a partner;

Whereas more than 1 in 4 teenagers have been in a relationship where a partner is verbally abusive;

Whereas 30 percent of teenagers in a dating relationship have been text messaged 10, 20, or 30 times per hour by a partner attempting to find out where they are, what they are doing, or who they are with;

Whereas 40 percent of the youngest ''tweens'', those between the ages of 11 and 12, report that their friends are victims of verbal abuse in dating relationships;

Whereas nearly 3 in 4 tweens say that dating relationships usually begin at age 14 or younger;

Whereas 29 percent of girls who have been in a relationship said that they have been pressured to have sex or to engage in sexual activities that they did not want;

Whereas 69 percent of all teenagers who had sex by age 14 said they have experienced 1 or more types of abuse in a dating relationship;

Whereas 1 in 5 teenagers (20 percent) between the ages of 13 and 14 say their friends are victims of dating violence;

Whereas in 2003, in a national survey of over 14,000 high school students conducted by the Centers for Disease Control and Prevention, just over 8 percent of boys and girls reported physical dating violence victimization and were more likely to engage in risky behaviors including sexual intercourse, attempted suicide, episodic heavy drinking, and physical fighting;

Whereas Native American women experience higher rates of interpersonal violence than any other population group;

Whereas violent relationships in adolescence can have serious ramifications for victims, putting them at higher risk for substance abuse, eating disorders, risky sexual behavior, suicide, and adult revictimization;

Whereas the severity of violence among intimate partners has been shown to be greater in cases where the pattern of violence has been established in adolescence;

Whereas more than 3 times as many tweens (20 percent) as parents of tweens (6 percent) admit that parents know little or nothing about the tweens' dating relationships;

Whereas a majority of parents surveyed either believe dating violence is not an issue or admit they do not know if it is an issue; and

Whereas the establishment of National Teen Dating Violence Awareness and Prevention Week will benefit schools, communities, and families regardless of socio-economic status, race, or sex: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of February 2 through February 6, 2009, as ''National Teen Dating Violence Awareness and Prevention Week''; and

(2) calls upon the people of the United States, high schools, law enforcement, State and local officials, and interested groups to observe National Teen Dating Violence Awareness and Prevention Week with appropriate programs and activities that promote awareness and prevention of the crime of teen dating violence in their communities.

S. RES. 728

Whereas mentoring is a longstanding tradition in which a dependable, caring adult provides guidance, support, and encouragement to facilitate a young person's social, emotional, and cognitive development;

Whereas continued research on mentoring shows that formal, high-quality mentoring focused on developing the competence and character of the mentee promotes positive outcomes, such as improved academic achievement, self-esteem, social skills, and career development;

Whereas further research on mentoring provides strong evidence that mentoring successfully reduces substance use and abuse, academic failure, and delinquency;

Whereas mentoring, in addition to preparing young people for school, work, and life, is extremely rewarding for those serving as mentors;

Whereas more than 4,200 mentoring programs in communities of all sizes across the United States focus on building strong, effective relationships between mentors and mentees;

Whereas approximately 3,000,000 young people in the United States are in solid mentoring relationships due to the remarkable vigor, creativity, and resourcefulness of the thousands of mentoring programs in communities throughout the Nation;

Whereas, in spite of the progress made to increase mentoring, the Nation has a serious ''mentoring gap'', with nearly 15,000,000 young people in need of mentors;

Whereas mentoring partnerships between the public and private sectors bring State and local leaders together to support mentoring programs by preventing duplication of efforts, offering training in industry best practices, and making the most of limited resources to benefit young people in the United States;

Whereas the designation of January 2009 as National Mentoring Month will help call attention to the critical role mentors play in helping young people realize their potential;

Whereas a month-long celebration of mentoring will encourage more individuals and organizations, including schools, businesses, nonprofit organizations, faith institutions, and foundations, to become engaged in mentoring across the United States; and

Whereas National Mentoring Month will, most significantly, build awareness of mentoring and encourage more people to become mentors and help close the mentoring gap in the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of January 2009 as ''National Mentoring Month'';

(2) recognizes with gratitude the contributions of the millions of caring adults and students who are already volunteering as mentors and encourages more adults and students to volunteer as mentors; and

(3) encourages the people of the United States to observe National Mentoring Month with appropriate ceremonies and activities that promote awareness of, and volunteer involvement with, youth mentoring.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 96–114, as amended, appoints the following individual to the Congressional Award Board: Major General Robert Newman of Virginia.

ORDERS FOR FRIDAY, DECEMBER 12, 2008, THROUGH FRIDAY, JANUARY 2, 2009

Mr. DURBIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess for pro forma sessions with no business conducted on the following days and times: Friday, December 12 at 10 a.m.; Tuesday, December 16 at 11 a.m.; Friday, December 19 at 10 a.m.; Tuesday, December 23 at 11 a.m.; Friday, December 26 at 11 a.m.; Tuesday, December 30 at 10:30 a.m.; and Friday, January 2 at 10 a.m.; that at the close of the pro forma session on January 2, the Senate stand adjourned sine die under the provisions of H. Con. Res. 440.

Further, I ask unanimous consent that the record remain open for statements until 12 noon tomorrow.

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

Mr. DURBIN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AUTHORITY TO MAKE APPOINTMENTS

Mr. DURBIN. Madam President, I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

RECESS UNTIL 10 A.M. TOMORROW

Mr. DURBIN. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it stand in recess under the previous order.

There being no objection, the Senate, at 11:50 p.m., recessed until Friday, December 12, 2008, at 10 a.m.

NOMINATIONS

Executive nomination received by the Senate:

DEPARTMENT OF JUSTICE

MATTHEW W. FRIEDRICH, OF TEXAS, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE ALICE S. FISHER, RESIGNED.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S10889–S10958

Measures Introduced: Ten bills and one resolution were introduced, as follows: S. 3732–3741, and S. Con. Res. 107. **Page S10946**

Measures Reported:

Report to accompany S. 3501, to ensure that Congress is notified when the Department of Justice determines that the Executive Branch is not bound by a statute. (S. Rept. No. 110–528) **Page S10946**

Measures Passed:

Technical Corrections: Senate passed H.R. 7327, to make technical corrections related to the Pension Protection Act of 2006, clearing the measure for the President. **Pages S10914–15**

United States Capitol Complex Tours: Senate agreed to S. Con. Res. 107, expressing the sense of Congress regarding the rights of Members of Congress (or any employee of a Member of Congress authorized by that member) to lead tours of the United States Capitol complex. **Page S10957**

Union Station, Washington, D.C. Centennial: Committee on Environment and Public Works was discharged from further consideration of S. Res. 664, celebrating the centennial of Union Station in Washington, District of Columbia, and the resolution was then agreed to. **Page S10957**

National Teen Dating Violence Awareness and Prevention Week: Committee on the Judiciary was discharged from further consideration of S. Res. 710, designating the week of February 2 through February 6, 2009, as ''National Teen Dating Violence Awareness and Prevention Week'', and the resolution was then agreed to. **Pages S10957–58**

National Mentoring Month: Committee on the Judiciary was discharged from further consideration of S. Res. 728, designating January 2009 as ''National Mentoring Month'', and the resolution was then agreed to. **Pages S10957–58**

Measures Considered:

Alternative Minimum Tax Relief Act—Cloture: Senate continued consideration of the motion to proceed to consideration of H.R. 7005, to amend the Internal Revenue Code of 1986 to provide alternative minimum tax relief for individuals for 2008. **Page S10931**

During consideration of this measure today, Senate also took the following action:

By 52 yeas to 35 nays (Vote No. 215), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the motion to proceed to consideration of the bill. **Page S10931**

Senator Reid entered a motion to reconsider the vote by which cloture was not invoked on the motion to proceed to consideration of the bill. **Page S10931**

Appointments:

Congressional Award Board: The Chair, on behalf of the Majority Leader, pursuant to Public Law 96–114, as amended, appointed the following individual to the Congressional Award Board: Major General Robert Newman of Virginia. **Page S10958**

Authorizing Leadership to Make Appointments—Agreement: A unanimous-consent agreement was reached providing that, notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President Pro Tempore, and the Majority and Minority Leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate. **Page S10958**

Pro Forma Sessions—Agreement: A unanimous-consent agreement was reached providing that Senate meet in pro forma sessions with no business conducted on the following days and times: Friday, December 12 at 10 a.m.; Tuesday, December 16 at 11 a.m.; Friday, December 19 at 10 a.m.; Tuesday, December 23 at 11 a.m.; Friday, December 26 at 11 a.m.; Tuesday, December 30 at 10:30 a.m.; and Friday, January 2 at 10 a.m.; and that at the close of the pro forma session on Friday, January 2, Senate stand adjourned sine die under the provisions of H. Con. Res. 440. **Page S10958**

Nomination Received: Senate received the following nomination: Matthew W. Friedrich, of Texas, to be an Assistant Attorney General. **Page S10958**

Messages from the House: **Pages S10944–45**

Executive Communications: **Pages S10945–46**

Additional Cosponsors: **Page S10947**

Statements on Introduced Bills/Resolutions: **Pages S10947–51**

Additional Statements: **Pages S10943–44**

Amendments Submitted: **Pages S10951–57**

Authorities for Committees to Meet: **Page S10957**

Record Votes: One record vote was taken today. (Total—215) **Page S10931**

Recess: Senate convened at 10 a.m. and recessed at 11:50 p.m., until 10 a.m. on Friday, December 12, 2008. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S10958.)

Committee Meetings

(Committees not listed did not meet)

WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM PREVENTION REPORT

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine a report from the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, after receiving testimony from former Senators Bob Graham and Jim Talent, Chairman and Vice Chairman, respectively, and former Representative Tim Roemer, and Robin Cleveland, each a Commissioner, all of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

House of Representatives

Chamber Action

The House was not in session today. The House is scheduled to meet at 11 a.m. on Saturday, January, 3, 2009, pursuant to the provisions of H. Con. Res. 440.

Committee Meetings

STATES AND LOCAL COMMUNITIES—IMPACT OF RECESSION

Committee on Appropriations: Held a hearing on the Impact of Recession on States and Local Communities. Testimony was heard from the following Governors: Jon Corzine, New Jersey; Jim Doyle, Wisconsin; and Jim Douglas, Vermont; and public witnesses.

OVERSIGHT—ADMINISTRATION'S LAST-MINUTE RULEMAKINGS

Select Committee on Energy Independence and Global Warming: Held a hearing entitled ''Approaching Midnight: Oversight of the Bush Administration's Last-Minute Rulemakings.'' Testimony was heard from public witnesses.

COMMITTEE MEETINGS FOR FRIDAY, DECEMBER 12, 2008

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

No committee meetings are scheduled.

Next Meeting of the SENATE

10 a.m., Friday, December 12

Senate Chamber

Program for Friday: Senate will meet in pro forma session.

Next Meeting of the HOUSE OF REPRESENTATIVES

11 a.m., Saturday, January 3, 2009

House Chamber

Program for Saturday: To be announced.

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