aisle have not read the entire bill. The reason we presented a much smaller bill was because obviously you have not read our bill either. I know our opening comment——

Mr. FRANK of Massachusetts. I will take back my time.

Mr. GARRETT of New Jersey. You yielded it to me, so I am responding.

Mr. FRANK of Massachusetts. I yielded to you—and I want to respond to the response.

Mr. GARRETT of New Jersey. You yielded me 2 minutes, I believe.

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I took 2 minutes for myself, and then yielded to the gentleman.

Mr. GARRETT of New Jersey. I'm sorry, I thought you wanted a response.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 30 seconds just to explain to the gentleman from New Jersey, who misunderstands the rules, I yielded myself 2 minutes so we could have a conversation. He then used up the 2 minutes. So it was not within my power to continue it.

Mr. GARRETT of New Jersey. Hopefully I answered the gentleman's question.

Mr. FRANK of Massachusetts. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. AL GREEN of Texas) having assumed the chair, Mr. TEAGUE, Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. PERLMUTTER, from the Committee on Rules, submitted a privileged report (Rept. No. 111–369) on the resolution (H. Res. 962) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 956 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4173.

□ 2200

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, with Mr. TEAGUE in the chair.

The Clerk read the title of the bill.

The CHAIR. When the Committee of the Whole rose earlier today, 108¼ minutes remained in general debate.

The gentleman from Massachusetts (Mr. FRANK) has 46¾ minutes remaining, the gentleman from Alabama (Mr. BACHUS) has 56½ minutes remaining, and the gentleman from Oklahoma (Mr. LUCAS) has 5 minutes remaining.

Who yields time?

Mr. FRANK of Massachusetts. I will yield 4 minutes to the gentleman from Illinois (Mr. GUTIERREZ), the chairman of the Subcommittee on Financial Institutions, who's done a great deal to help small banks in this bill.

Mr. GUTIERREZ. Mr. Chairman, in spite of the words of the other side of the aisle, I rise in strong support of H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. This is legislation that is vital to making our financial institutions better capitalized, our consumers safe from predatory practices, and our economy stronger so that we can emerge from the recession that was caused by the very financial institutions that we are now fighting tooth and nail to defeat this legislation.

I was proud to work with the chairman to include my amendment. And I understand that my parents came to this country and they didn't speak English, and so the first 5 years before they sent me to school I spoke another language other than English. But I've had the bill thoroughly examined by those who do speak the English language and have only spoken the English language all of their lives, and they cannot find the bailout fund in the bill.

Now, I've worked with the chairman, I wrote the dissolution fund, I wrote the fund and I put it in the bill. It's my amendment. Now, the ex-ante fund means that firms that could ultimately be dissolved by this fund would have to pay at least.

But what my friends on the other side said, they said, and they finally used it, Mr. Chairman, in all of the committee hearings, they didn't call us socialists. They waited to get to the House floor before they used the dreaded word of socialism. And what did they say? They said, the socialists, that means us, the Democrats, created a bill in which, and this is Mr. BACHUS, and he can go and check his words, he said, they created a bill and they made all the institutions pay into it. And he said, that's socialism. And then when one of them fails and doesn't do something right, all of those people that paid into the funds have to pay for the wrongs of that person.

Well, I guess Geico is socialist. State Farm is socialist. Allstate is socialist. Indeed, any insurance fund is socialist, because when I drive my car and never have an accident, I pay into the insurance fund so that maybe when some Member on the other side of the aisle gets into an accident, I pay with my funds for his mistakes. That's insurance. Now, what they won't tell you is that, unlike everybody in this room who has to go out and take out an insurance policy to drive a car, they want Wall Street and Goldman Sachs to be able to drive our economy into the ground without paying a cent of insurance in case they act recklessly.

And all we're saying, as Democrats, is it's simple: if you want to do business in America, and you threaten the economic stability of our country, then you've got to pay into an insurance fund. But let me tell you, it's not the kind of insurance fund that you get into an accident and you take your car and they fix and they give it kind of back to you new. No, no. In our insurance fund, you know what happens? We chop up your car into pieces and sell it, and then we pay back the fund with the pieces. That's our fund. Read the bill. It's a funeral fund.

You guys loved to talk about the death and death and death when it came to health care insurance. Why don't you talk about our death panels now? Oh, you don't want to talk about our death panels now, because you want to know why? Because yesterday they had 100 lobbyists out here in Washington, DC meeting with them. One hundred.

How many of those lobbyists do you think met with the other side of the aisle and said, we're here to make sure that our small farm is protected against Goldman Sachs? How many of those lobbyists do you think came here and said to my friends on the other side of the aisle, tomorrow can you make sure that that bill protects my 401(k)? How many of those lobbyists do you think they met with yesterday said, make sure it protects my home, make sure it protects my small business. I don't think any of those lobbyists came to ask my friends on the other side——

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield the gentleman another minute.

Mr. GUTIERREZ. So let's be clear. This side of the aisle wants to make sure there are no longer situations of ''too big to fail.'' Now, if you believe that the men and women at Goldman Sachs tonight and tomorrow and into the future, when they make an economic decision, they say to themselves, well, this might harm homeowners and put them on the street, we shouldn't do that—I'm sure Goldman Sachs they're really worried about

that. Let me see, these kids not be able to go to college if we make this economic decision. Oh, Goldman Sachs is really worried about whether our kids can go to college in America. Let me see. You mean, small businesses may suffer. Banks may go under if we make those decisions? I'm sure the men and women at Goldman Sachs, they think every day about the poor American public and the risk they put us to.

If you believe that, then you can follow my friends on the other side of the aisle and do nothing. But if you believe, as I do, and many of us, that we should protect the American worker each and every day, make sure the kids go to college, make sure there's a pension for him, make sure his home is there for him, then I say support this bill.

Mr. LUCAS. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. I get such a big kick out of that hollering and yelling over there. Maybe I should get my voice up here real quick. You know, Shakespeare said, a rose by any other name would smell as sweet. And when we talk about socialism, I just suggest you go look in the dictionary and read what it says as far as the definition is concerned.

My Democrat colleagues have moved to take over the auto industry, the health industry, the energy industry, and now they're trying do it through the bureaucracy, and now they're doing it with the banking industry and the financial institutions of this country. Now, when the government takes over the private sector, that's socialism. And if you don't believe it, look it up in the dictionary.

You know, this was tried back in the 1930s when Roosevelt was President. He passed what was called the National Recovery Act, and he tried to do it in one fell swoop. You guys are doing it incrementally, but you're doing the same thing they tried to do back then. There were two guys that came over from Europe who sold chickens, and they had these chickens in a crate. And they let people pick out the chickens they wanted to buy because the people could pick the fat ones or whatever ones they wanted. And the National Recovery Act officials came in and said, you can't do that; you have to take the first chicken you grab because you might leave some of the skinny ones for the people that come later. That case went all the way to the United States Supreme Court, and Justice Brandeis, who was not a conservative, he was a liberal judge, he wrote the opinion. And the vote was 9–0 saying that it was unconstitutional to have the National Recovery Act because it was socialism. And that's what you're doing right now to this economy.

And I think everybody in America that's paying attention really understands it. You're running us in the ground financially, and you're putting all the control you can under the government. And the future generations are going to suffer because of that.

And so I'd just like to say to my colleagues tonight on the other side of the aisle, we believe we should solve these problems—and there are problems. But we believe we should do it the way Ronald Reagan did, instead of taxing the people to death, putting more control in government and putting us in a debt that we'll never get out of, and saddle our kids and posterity with something that they'll curse us for down the road.

So what I say to my colleagues, and I hope my colleague who just spoke is still around here, he probably left, go to the dictionary, and if you need one, I'll get it for you, and look up ''socialism,'' and you'll see what you're doing is socialism.

□ 2210

Mr. FRANK of Massachusetts. Mr. Chairman, I would yield myself 15 seconds to say I wish we had the Consumer Financial Protection Agency already in place, because then the gentleman could get a refund on his dictionary because someone sold him a bum dictionary.

I now yield 4 minutes to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Thank you very much, Mr. Chairman.

I rise in strong support of this legislation, very much needed. When you talk of socialism, these are the same arguments that were held when Franklin Delano Roosevelt and members on the same body on the Democratic side of the aisle came forward to respond to the crisis in that generation. And there is no difference here today.

Oftentimes, when we've had great debates and when people get heated up in the call of the debate, when there's nothing else to argue, when there is no other point, you can always rely on ''it's socialism'' or ''it's communism.'' No. What this is is good ol' Americanism.

This is the most severe financial crisis since the Depression, and it requires this Congress to step forward with the intelligence and the sober mindedness to respond. This isn't socialism. This is good old-fashioned, good ol' free enterprise Americanism.

Let us talk for one second about one of the major issues that's been debated here, that this is not an end to bailout. This is an end of taxpayer bailouts to protect the American economy and American taxpayers from ever, ever again having to pay for a bailout. We don't know what the future holds in terms of ups and downs. This is not a socialist system. This is a free enterprise system. And that means we're going to be governed by the rigors of the markets, by supply and demand, by all of those things that are unforeseen.

But one thing we do know, that never again will the taxpayers have to foot the bill. That is what this does. It has worked well for us with FDIC.

There is nothing more we're doing with the system here for these large firms that are above $50 billion in assets or hedge funds that are above $10 billion then assessing them a simple insurance fee. If situations arise in which they become a systemic risk in which they have to be dismantled, then the taxpayers shouldn't have to pay for that. Let the financial services do it in that industry that is causing that problem. That is the American way.

Let us go to the issue of executive compensation. We know that one of the major reasons why we're in the situation we're in is because of incentives that require risk and encourage executives to take awesome risks as a feature for their bonuses or their compensation packages.

Are we saying the government now would determine these salaries and bonuses? No. We're incorporating the plan of resolution for this problem within the free private enterprise concepts, by telling the shareholders, allowing them to have a say in that pay. They own the company. Why shouldn't they be able to have a say-so in that pay so they will know what these risky behaviors are? And that is what we're doing in the executive pay and the compensation package.

And in the derivatives, we know what happened with Lehman Brothers. We know that was a derivative problem. That's a new, unregulated area, and so we move to govern and regulate over-the-counter derivatives by making them clear and standardized and putting them in exchanges for electronic platforms.

And finally, I want to add one other point. There has been a disproportionate impact on this crisis, and in this bill are some very important things for those people who have lost their jobs and are on the verge of losing their homes. And we put $3 billion in here for that and to help with economic stabilization and to address their concern.

What a fantastic bill. I urge my colleagues to support it.

Mr. LUCAS. Can I inquire of the Chair how much time I have remaining, please?

The Acting CHAIR (Ms. TITUS). The gentleman has 3½ minutes remaining.

Mr. LUCAS. Madam Chairman, I yield myself as much time as I might consume.

In my concluding remarks, I'd like to observe to my colleagues you can pass a 1,200-page bill, you can set up the process to generate tens of thousands of pages of rules and regulations, you can hire an army of faceless bureaucrats to enforce all of that stuff, to make decisions for the economy, to make decisions for business, to make decisions for people, but you can't repeal the laws of supply and demand.

If you add enough fees and enough rules and regulations to the process of delivering credit, you will drive away the sources of credit, reduce the supply of credit. At the same time, we hope to

reinvigorate this economy, to start it growing again. Demand for credit will go up. What happens when you lower the supply of credit and you raise the demand for credit? Through pieces of legislation like this, ultimately you drive up the cost of credit for everyone. The laws of supply and demand.

I know my friends believe they're sincerely doing the right thing, but the right thing in this scenario will drive down the availability of credit while at the same time demand goes up; and costs will go up, too, and that will affect every business, every person, every entity that needs credit.

I come from a capital-starved district in Oklahoma. Credit's important to every farmer, rancher, businessperson, every person engaged in the industry of energy production, every individual with a family trying to send their kids to school. Let's not make everything they do cost more.

I would now yield the balance of my time to the gentleman from the Financial Services Committee, Mr. BACHUS of Alabama.

Mr. BACHUS. I thank the gentleman.

Mr. GUTIERREZ came to the floor, and he made a point that we want to avoid what happened in AIG, but, in fact, I think he reminded the body of a very important thing, and that is what did happen in AIG. Large counterparties and creditors were bailed out. And whether you call it a permanent bailout authority—as we do—of $150 billion, or as the gentleman of Illinois says, a funeral fund of $150 billion, and it is used to bail out creditors and counterparties, now, isn't that what happened in AIG? Isn't that what the gentleman from Illinois and the chairman of the committee say they want to avoid? Yet they create a fund to bail out large counterparties and creditors. And in AIG, they bailed out 12 large counterparties, 10 of them foreign banks, 2 of them Wall Street firms.

□ 2220

They didn't bail out any cities. They didn't bail out any counties. They didn't bail out any community banks. And over 1,000 were owed money. And they are creating another fund to do exactly that.

I see my time has expired.

Madam Chair, I yield 5 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Madam Chair, I thank the gentleman from Alabama, the ranking member of the Financial Services Committee, for yielding me time.

Madam Chair, Congress today faces a once-in-a-generation decision. To respond to the financial meltdown of 2008, Congress can enact reforms that respond to the true causes of the calamity. Or Congress can pass legislation that flies in the face of the facts.

The first course will protect America from the same fate we suffered last fall. The second will only pave the way for our next potentially worse crisis. That's what the Wall Street Reform and Consumer Protection Act does. Why? Because as we have investigated the causes of the financial crisis, one conclusion has become clear. What caused the financial crisis of 2008 was government intervention in the economy. That intervention swept from the Community Reinvestment Act to Fannie Mae and Freddie Mac, to the Bear Stearns and AIG bailouts and beyond. It destroyed financial incentives, promoted dangerous risk-taking, and ultimately provoked full-blown market panic.

Yet what does this legislation do? It provides super-sized tools for ever more invasive government control of the economy. It further entrenches the Community Reinvestment Act. It fails to reform Fannie Mae and Freddie Mac. And it institutionalizes billion-dollar bailouts. For example, take the act's provisions that allow the Federal Government to take over and wind down the liabilities of financial institutions. This empowers the Federal Government to determine which of our biggest financial institutions live and die. It is backed by a $200 billion bailout fund. It has never before existed. And it should not be created now.

For over 100 years, the bankruptcy code has been America's trusted means for dissolving or reorganizing failed or failing firms. The administration and this bill's sponsors send the Bankruptcy Code's remedies to the trash heap. They do so on the theory that Lehman Brothers' bankruptcy triggered the financial panic of September 2008. If bankruptcy triggered the panic, goes the argument, we have to look beyond the bankruptcy code to reform the financial system. The problem is that the so-called Lehman Brothers theory is a myth. The market took Lehman Brothers' bankruptcy more or less in stride.

What triggered systemic financial panic was subsequent action by the Treasury and the Federal Reserve. These agencies' actions signaled to investors that the government anticipated a market collapse, but did not have an adequate plan of action. In a self-fulfilling prophecy, it was only after the Treasury and the Fed ratcheted everyone up into a panic that the market itself collapsed and not after their earlier decision to let Lehman Brothers go into bankruptcy.

Other government actions also contributed to the panic. These included the government's inconsistent treatment of Bear Stearns and AIG, which it bailed out, and Lehman Brothers, which it did not.

Yet what does today's bill do? It expands and then cements into place the government's authority to engage in wave after wave of ad-hoc bailouts. It sews the Community Reinvestment Act into the very fabric of the new consumer financial protection agency. It fails to reform Fannie Mae and Freddie Mac, and it throws out the one tool that has worked to resolve a giant, failing financial company. That tool is the bankruptcy code, which was used successfully to wind down Lehman Brothers.

Madam Chair, we have no reason to avoid the bankruptcy code and other sound measures that can avert future financial distress. What America should renounce is the super-charged government control of our economy that the bill represents.

We do not need government control that lets Federal agencies and government employees distort who gets credit, displace private enterprise, and determine behind closed doors what companies live and die. We have tried that before. It brought us the meltdown of 2008.

Mr. FRANK of Massachusetts. I believe there is an imbalance of time, so I will reserve.

Mr. GARRETT of New Jersey. I yield 3 minutes to the gentleman from New York (Mr. LEE).

Mr. LEE of New York. Madam Chairman, with unemployment currently in the double digits and a Federal deficit of over $12 trillion, Congress should be focused on creating jobs and keeping taxes low. Instead, before us today is another staggering bill, 1,300 pages in all, which will add to the deficit and shift thousands of jobs overseas.

This bill creates yet another new government agency which will be headed up by yet another new czar, in this case a new credit czar, who will limit consumer choices, ration credit and increase the cost of doing business.

It's outrageous that we want to give this new credit czar virtually unchecked authority to restrict financial product choices for businesses and consumers at a time when this economy is in dire straits. Studies suggest that this agency will reduce new job creation by at least 4.3 percent and worsen the credit crunch that businesses of all sizes are currently facing.

This bill also establishes a permanent bailout fund for financial institutions. Washington should finally abandon this notion of ''too big too fail.'' I can tell you my constituents are surely sick and tired of the bailouts of Wall Street firms.

One thing I know: There is no such thing as a free lunch. And unfortunately, the $150 billion cost of this new permanent bailout fund will rest on the shoulders of consumers and investors in the form of higher interest rates and increased fees.

The financial crisis showed us that reforms are needed. But this bill will do far more harm than good. This bill is simply the wrong approach at absolutely the wrong time, and I urge all of my colleagues to oppose it.

Mr. FRANK of Massachusetts. I yield 4 minutes to the gentleman from Minnesota (Mr. ELLISON).

Mr. ELLISON. Madam Chair, let me thank the chairman and ranking member, but also let me remind our colleagues that we are not here by accident. We are here because over the course of several years, lax regulation

and failure, and inadequacy of law landed us at a point where we have seen over 2 million homes in foreclosure in this year alone. By September 2008, the average housing price had declined by over 20 percent since 2006. That's real wealth from families. More than 60 percent of subprime loans went to people who could have qualified for lower cost. And nearly one in four U.S. borrowers currently owes more on their mortgage than their home is worth.

This, in large measure, happened, Madam Chair, because mortgage brokers, unregulated, lured families with low teaser-rate interest rates that later skyrocketed to unaffordable levels, hidden fees, and charges in incomprehensible terms and conditions that brought on the housing crisis and undermined the financial system.

I want to rise in favor of the Wall Street Reform and Consumer Protection Act, which includes a strong consumer financial protection regulation. One of the most important causes of the financial crisis, as I mentioned, is the utter failure of consumer protection. The most abusive and predatory lenders were not federally regulated, were not regulated at all in some cases, while regulation was overly lax for banks and other institutions that were covered.

To address this problem, I believe we need a new agency dedicated to consumer financial protection, a consumer financial protection agency, one agency, not a bunch, one, one that takes the interests of the consumer and puts them first. Not, let's work in the consumer. Not let's see what we can do for the consumer when we get to it, but the interests of the consumer up front.

Such an agency, as contemplated in this legislation, would have the power to stop unfair, deceptive, and abusive financial products and services. It would also require financial institutions to provide concise, clear and easy-to-understand disclosures on the terms and conditions of consumer credit products.

Of course, there are some who would like to keep the same regulators on the job and thereby piece together shards of a broken system. But what we need is real reform to protect not only the individual consumer but our economy as a whole.

Right now, many people are fighting tooth-and-nail to weaken and eliminate the consumer financial protection proposal, spending millions of dollars on a scare campaign that spreads false claims about the agency. But how can they do this in light of the over 2 million foreclosures we have seen? Consumers all across America can't afford what these lobbyists are selling to certain Members of our body.

The sale of risky and irresponsible credit products has cost over 10 million jobs and 2 million homes. We can't afford to lose any more, and that is why we need a consumer financial protection agency that is the cornerstone of any real regulatory reform.

Now this bill, Madam Chair, is comprehensive. It talks about derivatives, credit rating agencies, and executive compensation, and it ends bailouts.

□ 2230

Make no mistake about it: it is protection of the consumer, the average person purchasing a financial product that is the cornerstone of this financial legislation; and it is why I urge my colleagues to support it.

Mr. GARRETT of New Jersey. Madam Chair, can you advise the time remaining on both sides.

The Acting CHAIR. The gentleman from New Jersey has 50¼ minutes remaining, and the gentleman from Massachusetts has 33½ minutes remaining.

Mr. GARRETT of New Jersey. I now yield 2 minutes to a gentleman who is leading the fight against this bill, which perpetuates taxpayer-funded bailouts and the loss of millions of jobs, the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Madam Chair, I have great concerns about this bill, especially title IV of the so-called Consumer Financial Protection Agency. It creates yet another czar, and look at the groups that will be impacted by this bill:

Financial advisers, anybody providing financial advice, educational courses or instructional materials to customers, credit counselors, debt management services, anybody acting as a custodian of money, trust accounts, tax planning services, private pools of capital, municipalities who issue bills on utilities, water, sewer, electricity, waste collection, et cetera, courts dealing with fees, fines, taxes paid on an installment basis for counties and municipalities, schools, tuition installment, room and board, third-party agencies handling fee processing, banks, credits, unions, thrifts merchants, layaway plans, any installment plan, financing option, real estate activities, brokers, appraisers, title companies, title insurers, auctioneers, inspectors, surveyors of real estate settlement, cockroach inspectors for homes are covered under this bill.

What's financial about that unless you are counting cockroaches? Doctors, issuance of credit, rarely do people pay a bill at the ''point of sale'' in a doctor's office, lawyers, disbursing money through a trust account, the closing of a real estate transaction.

Madam Chair, this bill is so pervasive that the term ''anybody involved in a financial action'' literally covers somebody writing checks on behalf of his mother who is in a nursing home. That's why this bill is dangerous.

We can't proceed on a bill like this and have all these different groups that are impacted. Most of these groups will have no idea that they will be governed by the so-called financial czar. We don't need another czar. We need a lot more freedom in this country.

Mr. FRANK of Massachusetts. I reserve the balance of my time.

Mr. GARRETT of New Jersey. Madam Chair, I now yield 3 minutes to another leader in the fight against this bill which perpetuates the idea of continued taxpayer-funded bailouts, the gentleman from Florida (Mr. POSEY).

Mr. POSEY. Madam Chair, unfortunately this well-intentioned legislation misses the mark when it comes to taking steps to prevent future financial sector meltdowns. The well-intentioned authors of this bill have failed to fully acknowledge the reasons behind the current meltdown. They point primarily to Wall Street as the cause of the meltdown and direct most of their efforts in this bill at further regulating the private marketplace.

Certainly, the actions taken by some on Wall Street were responsible, at least in large part, for the financial meltdown. Efforts to address some of these excesses are warranted and should be part of the reform. However, there are many factors that contributed to the meltdown; and by assigning a disproportionate share of the blame to any one party, they leave in place many of the practices that contributed to the meltdown.

If we base our actions upon the mistaken notion that the financial meltdown was principally caused by the private sector and that the regulators lacked the necessary tools to oversee the private sector, then we are bound to repeat the mistakes of the past.

The crafters of this legislation have failed to objectively assign blame. History will bear out that a major culprit of the financial meltdown was the government itself, and the government's policies, including many such policies that were advocated by Members of the Congress.

The government-sponsored enterprises, Fannie Mae and Freddie Mac, were key players in the mortgage marketplace, and they were largely responsible for proliferating subprime loans. Freddie and Fannie were heavily regulated by the Federal Government. They carried an implied government guarantee.

Yet, what did they do? They purchased over $1.9 trillion in subprime loans between 2002 and 2007. That, according to a report by the Government Oversight and Reform Committee, represented 54 percent of all such mortgages purchased in those years. In purchasing these subprime loans, they were encouraging lenders to make more of them.

Had Fannie and Freddie not been such ready buyers of subprime loans, many of the loans likely would not have been made. That is not to say that some of the private sector would not have made such loans; but had they done it, it certainly would not have been of the grand magnitude, since Fannie and Freddie would not have been standing there ready to buy the loans from the lenders.

We must also consider the actions of the Federal Reserve. The Fed and other central banks around the world kept

interest rates at very low levels between 2002 and 2006, making credit easy and cheap. Making access to money so easy and so cheap intensified and inflated the boom in the early to mid-2000s as well as the resulting burst in 2008.

Common sense would suggest that we would learn from these mistakes. Unfortunately, H.R. 4173 significantly expands the power of the Federal Reserve, the very entity that was responsible for, but failed to identify, systemic risk in what have become some of the recipients of taxpayer bailouts.

The Acting CHAIR. The time of the gentleman has expired.

Mr. GARRETT of New Jersey. I yield the gentleman 1 additional minute.

Mr. POSEY. Even worse is that H.R. 4173 creates a permanent TARP-like bailout authority. This is likely to promote systemic risk and undermine systemic financial stability.

Another blatant failure of the Federal regulators is the Securities and Exchange Commission's failure to pursue the investigation of Bernie Madoff's Ponzi scheme. In 1999 Charles Markopolos presented the SEC with an extensive report alleging fraud by Bernie Madoff. In 2001 Barrons ran an article outlining the alleged fraud.

While they had the necessary tools to investigate Madoff, the SEC's failure to use these tools at their disposal and launch a full investigation enabled Madoff to perpetuate his $50 billion-plus Ponzi scheme. As further evidence it is wrong to further empower bureaucrats, note that today not one SEC employee has been terminated, disciplined, furloughed or even had their wrist slapped for their colossal failures with regard to the Madoff scandal.

We have also heard concerns of small businesses that this bill will further restrict their access to credit.

Not only is this particular development troubling, but when you consider the cumulative effects of legislation under consideration in the Congress that would adversely affect them, it is very disconcerting.

The taxes that would be imposed by the health care bill, the proposed national energy tax, the resulting carbon regulations coming forward from the Environmental Protection Agency, and the higher taxes that will be imposed by expiring tax reductions point to a perfect storm for killing America's economic engine—our small businesses.

There is plenty of blame to go around for the financial meltdown. The failure of the H.R. 4173 to acknowledge this, will only put us on the path to repeating such costly mistakes in the future.

I urge my colleagues to vote against H.R. 4173. Let's send this bill back to committee and get it right.

Mr. FRANK of Massachusetts. I yield to the gentlewoman from Ohio (Ms. KILROY), who I understand wants to engage in a colloquy.

Ms. KILROY. Thank you, Mr. Chairman. I would like to address the provisions of section 1103, which specifies the criteria to be considered in determining whether a financial company might be subject to stricter standards. It is my understanding that nondepository captive finance companies do not pose the types of risks that warrant such treatment.

Nondepository captive finance companies typically provide financing on a nonrevolving basis only to customers and to dealers who sell and lease the products of their parent or affiliate. As such, they are involved in only a narrow scope of financial activity.

Equally important, their loans are made on a depreciating asset, a fact taken into account when the loans are entered into. If they are not a depository institution, they therefore have no access to the Federal deposit insurance safety net. It is my understanding that it is the intent of the committee that nondepository captive finance companies are not the types of finance companies that should be subjected to stricter standards under section 1103 of this legislation; is that correct?

Mr. FRANK of Massachusetts. The gentlewoman is correct. She has been very diligent in trying to protect this very important type of financing. Financing companies are not depository institutions. They provide financing for the sale of that particular product in that company.

It is again inconceivable to me that somehow they would rise to the level of risk that would justify the Systemic Risk Council stepping in.

Ms. KILROY. Thank you, Mr. Chairman.

□ 2240

Mr. GARRETT of New Jersey. Madam Chair, I yield 3 minutes to the gentlewoman from Minnesota (Mrs. BACHMANN).

Mrs. BACHMANN. Madam Chair, last July an economist from Arizona State University had determined that since the inception of ''Bailout Nation'' in September of 2008, the Federal Government has taken ownership or control of 18 percent of our economy, and if President Obama gets his way and takes over the health care industry, that's another 18 percent of our economy, or 48 percent. Then, if President Obama and former Vice President Al Gore have their way and cause electricity rates to necessarily skyrocket by taking over the energy industry and imposing a national energy tax, that would mean the government takeover of another 8 percent of the economy for a total of 54 percent.

As harmful to freedom as these bills are, they don't hold a candle to the government takeover and control of every financial transaction of the financial industry. And why? Because when government controls credit, when government rations credit and bails out its politically well-connected friends, that's gangster government at its worst, and that throws a net of government control over every financial transaction entered into in this country. Some experts say that is government control of another 15 percent of the economy for a total of 69 percent. This is stunning, nothing less than stunning.

Could it be that not in our lifetime but in less than 18 months' time the Federal Government will take over or control nearly 70 percent of the American economy? And the majority has the audacity to berate this side of the aisle for suggesting the word ''socialism''?

Heaven help the American taxpayer. Heaven help the American entrepreneur. Heaven help the maintenance of freedom for the sake not only of our people but for the sake of the continuance of the Constitution of these great United States.

Mr. GARRETT of New Jersey. Madam Chair, I yield 2 minutes to the gentleman from Minnesota (Mr. PAULSEN).

Mr. PAULSEN. I thank my colleague for yielding.

Madam Chair, unfortunately this bill only continues the culture of bailouts and encourages firms to engage in risky behavior. As far I'm concerned, all it will do is remove the element of surprise that we saw last fall with the first amount of selected bailouts we had, and this is not the right way to go.

Just look at what this bill would do to the availability of credit. The bill before us, this 1,300-page bill, has provisions that actually take away capital needed by firms to help expand businesses, increase investments, and ultimately create jobs. Estimates show that the size of the fund could be more than $200 billion as a part of this fund. Now, this money has to come from somewhere, and this will place a significant burden not only on these firms but also on credit that will get dried up.

During these tough economic times with record unemployment, 10 percent unemployment, why do we make it more difficult for getting credit for small businesses and job creation? Why should a company who is not deemed to be systemically risky have to pay for those companies that have been engaging in excessively risky behavior?

Madam Chair, it's also worth mentioning the danger that's posed when we create institutions that are ''too big to fail.'' That's been a problem with Washington, the ''too big to fail'' doctrine. In doing so, we will also define those businesses, unfortunately, that are too small to save, and we're not helping those too-small-to-save businesses.

It's unacceptable, unacceptable to have an economy, a two-tiered economy, economic system where the government is going to be picking winners and losers and it's codified into law. This bill does nothing to shelter companies from being swayed by the political winds like we saw in the previous round of bailouts. We've heard in testimony in committee that this bill will harm consumers from access to credit. It's going to make services even harder

to get. In a time when businesses can't access credit, why would we further stunt jobs and hurt economic growth? But as studies have shown, that's exactly what this bill will do.

The bottom line is, between the restrictions on capital, the jobs that would be lost, and the continued bailouts, this legislation is unacceptable.

Mr. FRANK of Massachusetts. Madam Chair, I yield 3 minutes to the gentlewoman from California (Ms. SPEIER).

Ms. SPEIER. Madam Chair, there are a couple of things I have asked Santa for Christmas. One of them is that our colleagues on the other side might tell the truth once in a while.

The words we have heard tonight, ''overregulation,'' ''government control,'' ''job loss,'' ''government takeover,'' ''bailout funds,'' couldn't be further from the truth. Let's go back in history.

For over 60 years, the Glass-Steagall Act worked in this country. It worked because the banks, the investment banks, the commercial banks, the insurance companies had to be separate. And then the financial institutions came in 1999 and we offered them, on a silver platter, what is called the Gramm-Leach-Bliley Act which allowed them all to merge, which allowed them to become too big to fail.

So what this particular bill is going to do is reverse that in many respects. It is going to create accountability. That fund that we're talking about is not going to be paid for by the taxpayers; it's going to be paid for by the companies themselves. It means that we are not going to see the kind of job loss we've had over the last few years because that all came under a period of time where there was no regulation, where the SEC was allowed to reduce the number of enforcement actions by 80 percent and disgorgement actions were reduced by some 60 percent.

So, Madam Chair, there's only one other thing I ask Santa for Christmas, and I think we're going to get it, and that is that the Wall Street firms are going to find something new in their Christmas stockings, and it's called accountability.

Mr. GARRETT of New Jersey. Madam Chair, I yield 2 minutes to the gentleman from Florida (Mr. PUTNAM) who recognizes that Glass-Steagall had absolutely nothing to do with the bailout of Bear Sterns and Lehman and the S and L crisis, and the gentleman who also recognizes that the American public is tired of the bailout mentality which would be sustained by this bill.

Mr. PUTNAM. I thank my friend for yielding.

Tonight my Democratic colleagues have brought forth for taxpayers' consideration legislation that will not only cost America more jobs but will make recovery more illusive, particularly for small businesses.

The bill creates a permanent bailout fund totaling $200 billion for Washington to prop up failing institutions, assuming, that is, that the $150 billion tax proves insufficient. That tax will contract lending and cause the loss of hundreds of thousands of jobs. The legislation would create a new burden on end users of derivatives in every sector of our economy: commercial real estate, energy production, manufacturing, agriculture, utilities, even health care. These types of businesses depend on hedging to protect themselves from price volatility.

What's more, businesses that had nothing to do with the financial collapse will now be saddled by a complex new regime of regulations. This will force businesses all across America to use their working capital against a risk they never posed instead of creating new jobs, replacing equipment, or expanding their business.

The legislation also welcomes a new bureaucrat, the credit czar, to our Nation's Capital in the form of a Washington-knows-best agency. The credit czar's mission is to dictate which financial products can and cannot be made available to consumers. The credit czar is required to assess fees on entities so the new government bureaucracy can meet its expenses. Such attacks mean less money for small businesses to create jobs, more fees passed on to consumers, and less access to credit for small business. What this assessment does guarantee is a bigger Washington bureaucracy.

If you're serious about lowering the deficit and creating jobs, oppose this big government expansion and support the Republican substitute.

Mr. FRANK of Massachusetts. Madam Chair, I yield 3 minutes to the gentleman from Ohio (Mr. WILSON).

Mr. WILSON of Ohio. Madam Chair, I come to the floor tonight to support H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009.

I have often said it's hard to play a fair game without a referee, and I believe that this bill will help us put the appropriate referees in place in our financial markets. It's a big step forward for more oversight, transparency, and consumer protection.

Before coming to Congress, I served for many years on a small bank board back home in Ohio. I know that small banks like the one in our community were not the problem that we're having today and they were not a part of the problem that led our financial markets to the edge of collapse this last fall.

□ 2250

I am proud that this legislation acknowledges that by not putting unfair burdens on banking institutions that have shown themselves to be good corporate citizens.

While the bill is not perfect, I support commonsense regulation of our financial markets. We must put an end to the ''too big to fail'' phenomenon. We must finally give consumers the long-overdue protection that will be provided by consumer protection. And we have to continue making significant improvements on mortgage lending standards so that we never again suffer from predatory lending and practices that we have in the past.

I urge my colleagues to support this important legislation.

Mr. GARRETT of New Jersey. May I inquire of the Chair the amount of time remaining on both sides?

The Acting CHAIR. The gentleman from New Jersey has 38 minutes remaining; the gentleman from Massachusetts has 30¼ minutes remaining.

Mr. GARRETT of New Jersey. Madam Chairman, I yield 4 minutes to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. I thank the gentleman.

Sometimes we think that government's role is to save the world. When I was in small business, there was a joke: People would say, I'm from the government, I'm here to help you. And you know, what I hear from small business men and women all across the country right now is, Please don't help us anymore. Why are they saying that? Because over the years, Congress has amassed a huge amount of regulations, and those regulations have been put on the backs of businesses all across our country.

Today, we are here to put another huge mountain on top of the financial markets, the capital markets, the very markets that our small businesses depend on for capital, in the name of trying to help them. And I will tell you tonight we're going to hurt them. We are going to cause people to lose their jobs because of this bill. In fact, a recent study at the University of Chicago and George Mason University estimated that passing this piece of legislation would reduce job growth by 4.3 percent. And you say, well, how can a consumer protection, how can a regulatory bill hurt small businesses, how can it cause job losses? Well, let's look at some of the predictions in here.

We are going to have this new regulator that is going to determine what kind of financial products banks and people that provide loans can hand out. So if I need a specialized loan that maybe has a little bit different terms than normal, my lender is concerned that the regulator is going to look at that loan and say, you know what, you shouldn't be making those kinds of loans.

At a time when the President of the United States is even trying to look and wait to find some jobs—and we are all looking for all of those jobs that supposedly the stimulus package created, but the truth of the matter is this will kill jobs. It will also hurt small businesses' ability to get capital.

Right now, we already hear that banks across the country are a little reluctant to loan money. Why are they reluctant to loan money? Because the regulators are clamping down on them. And now we're going to say to the regulators, you know what? You didn't clamp down hard enough, you didn't

regulate enough, so we're going to give you some new marching orders and put this new massive legislation in place. And everybody thinks that that is going to free up credit for small businesses to create jobs in America? It's not going to do that.

The concern I have is that if we continue down this road of regulation in the financial markets, we are going to begin to limit the choices for these banks to provide financial products.

The other thing that this bill does is it picks winners and losers again. Now, the distinguished chairman of the committee, who I have great respect for, says the taxpayers' money isn't involved in here. Maybe it's not tax money, but the consumers are going to pay for these bailouts. If you have an assessment, and you assess an entity for bailing out its competitor—and how that makes sense, I don't know—who do you think is going to pay the additional cost that that company is going to have to pay the assessment? The consumer is.

So what is this going to do to small businesses? It's going to raise the cost of capital. In fact, there is an estimate out there that the U.S. Chamber of Commerce, and others, say this will raise borrowing costs almost 1.5 percent for people and small businesses and consumers. Now, how does that help the economy? It doesn't help the economy; in fact, it puts a weight on the economy and, again, is going to cause jobs to be lost in this country.

So the question is, why are we here tonight? Why are we debating this bill? It's got a fancy title that says it's going to protect consumers, and it's going to punish Wall Street. Well, really, the issue is it doesn't punish Wall Street, because if you're a big company, this bill says we've got a way to prop you up because we're going to get the Federal Reserve to imply that you are too big to fail, picking winners and losers. And then that gives an unfair competitive advantage to these banks and other entities that aren't on the ''too big to fail'' list.

So I encourage my colleagues to vote ''no'' on this piece of legislation.

Mr. FRANK of Massachusetts. I yield 4 minutes to the gentleman from Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Madam Chair, it is said that a politician will always rise to the occasion; many have tonight, and many will. But it is also said that it takes a statesman to make the occasion. And I can say to you without reservation, hesitation, or equivocation, there is one great statesman among us tonight, and that is the honorable Chair of the Financial Services Committee who has made this occasion. And it should be intuitively obvious to the most casual observer that he has made this occasion because of a mandate from the American public, but also in spite of the efforts of many.

I would have us note that this newfound theory of ''less is best,'' this newfound theory of 170 pages is better than 1,279 pages, that this newfound theory can be improved upon. Rather than have 170 pages, why not have just one page, one page with nothing on it, or because we are all educated, let's just have one page with laissez faire, because that's what got us here, laissez faire, invidious laissez faire. This is what produced 327s; mortgages with 3 years of a fixed rate and 27 years of a variable rate; 228s, 2 years of a fixed rate—many people are very much aware of what I speak because they have suffered from these insidious products—2 years of a fixed rate and 28 years of a variable rate.

And then we had these teaser rates that coincided with prepayment penalties, such that if you wanted to get out of the teaser rate before it's set to an adjusted rate you had to pay an enormous prepayment penalty that locked people into these teaser rates. And of course we had the naked shorts. People were actually betting that the market would go down without money to cover the bets. And of course we had what we called the credit default swaps, the whole notion that you can bet that something won't fail and not have the money to cover your bet. Even in Vegas you have to have the money to cover your bet. AIG was engaging in a gambling racket that at any other time and place could have been declared unlawful and people could have gone to jail.

And of course this laissez faire, hands-off attitude gave us the so-called ''too big to fail''; too big to fail, which is just the right size to regulate, just the right size to separate into smaller pieces, and just the right size to eliminate, which is what this bill, H.R. 4173, does. It puts ''too big to fail'' in a position such that it will not only be regulated, but it will be eliminated. And it will be done in an orderly process, very much akin to the way we move in when banks are failing, and on one Friday it closes, and on Monday a new bank opens, perhaps not as fast, but the concept is the same.

□ 2300

''Too big to fail'' will no longer exist.

So, Mr. Chairman, I want to commend you, and I want to thank you for allowing me to be a part of this process and a part of this legislation. I want to thank you because I want you to know that there would be no H.R. 4173 without your leadership. Your leadership has clearly made a difference in the lives of people in this country.

The Acting CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield the gentleman an additional minute.

Mr. AL GREEN of Texas. And it is my absolute belief that when historians look back through the vista of time, they will say that the chairperson of this committee left big tracks in the sands of time, and that he made a difference in our lives for all time.

Mr. GARRETT of New Jersey. Madam Chairman, I now yield 6 minutes to the gentleman from Texas (Mr. HENSARLING), who has been probably one of the most outspoken leaders in our committee to try to end the continuation of taxpayer-funded bailouts.

Mr. HENSARLING. Madam Chairman, I rise tonight to oppose the Permanent Wall Street Bailout and Increase Job Losses Through Credit Rationing Act of 2009. If Congress had to abide by the truth-in-advertising laws that they impose on the rest of the Nation, surely this would be the official title of, indeed, this 1,279-page piece of legislation.

Madam Chairman, it is section 1609(n), for those who may have written the legislation and forgotten it, that creates a permanent $200 billion bailout fund. To paraphrase a line from the famous Kevin Costner movie ''Field of Dreams,'' if you build it, they will come. The only reason to create a Wall Street bailout fund is to bail out Wall Street permanently.

Now, the Democrats claim, Madam Chairman, that the bailout fund will not be paid for by taxpayers; but, Madam Chairman, these are the very same people who told us that the GSEs, the government sponsored enterprises, would never, never receive a dime of taxpayer money. And I guess, in a sense, they were literally correct. Instead, it's $1 trillion, $1 trillion of taxpayer money now committed to the failed government-sponsored enterprises.

These are the very same people who told us that, hey, don't worry about the Social Security trust fund; it'll get paid back. Medicare is financially sound. The National Federal Flood Insurance Program will never need a taxpayer infusion.

Madam Chairman, they were wrong then and they are wrong now. Besides creating a permanent Wall Street bailout fund, Madam Chairman, this bill represents the fourth piece of the Democrats' failing economic agenda. First was the $1 trillion stimulus, next the $600 billion national energy tax. After that, the $1 trillion government takeover of our health care plan.

Now, we all remember the stimulus plan. The President told us if it was enacted that unemployment would never rise above 8 percent. Yet our unemployment rate is at double digits, the worst in a generation; and the legislation before us will cause even more job losses. In sections 4301, 4304, 4308, it will do this by empowering an unelected czar to unilaterally—give the power to unilaterally ban and ration consumer credit products, and then finance itself through hidden taxes on consumer credit and successful American companies.

You heard the study alluded to earlier: interest rates paid by consumers would rise 1½ percent; new jobs would be reduced by almost 5 percent in our economy. More jobs would be lost, Madam Chairman, under the bailout authority which assesses $150 billion of taxes on large financial firms.

Now, maybe those on the other side of the aisle wish to engage in the myth that somehow that won't be passed on to consumers, that somehow this won't impact credit lines at small businesses; but they are wrong. Increased interest rates. Increased fees, fewer loans to small businesses. Madam Chairman, once again, more jobs will be lost under the Permanent Wall Street Bailout and Increase Job Losses Through Credit Rationing Act of 2009. The United States Chamber of Commerce has said that if this act is passed, it would have a significant adverse effect on small businesses by restricting their access to credit. Some would lose credit altogether.

Madam Chairman, I talk to a lot of good community bankers in my part of Texas. I have heard the chairman allude to the ICBA, and I certainly respect those who have Washington ZIP codes. Frankly, I respect those who have Texas ZIP codes a little bit more. I talked to a man who helps build Palestine, Texas, Kev Williams, East Texas National Bank. And he said, Congressman, if I have more compliance costs and the Federal Government in going to limit the types of customized credit products I can offer, we will lose jobs in Anderson County, Texas, that I have the privilege of representing in Congress.

I heard from a small businessman in my district, from Jacksonville, Texas, ''As a small businessman the restriction on credit may very well mean the end of my company.'' Madam Chairman, why should we pass any legislation that will harm the ability of small businesses to access credit in the midst of a credit contraction? After 3.6 million of our fellow countrymen have lost their jobs since President Obama took office, I ask my Democratic colleagues, how many more jobs have to be lost? How many more?

And, Madam Chairman, next the government takeover. Again, after proposing the $600 billion tax on our energy sector, a $1 trillion takeover of our health care system, the Democrats now bring us the next chapter in the narrative, and that is the takeover of huge portions of our consumer credit and finance markets. They will create a huge new, complex government bureaucracy and grant it sweeping draconian powers.

Section 1104 will allow it to break up successful companies like Dell Computer or American Airlines. Section 204 and 4306 will allow it to dictate the pay structure, all the way down to a bank teller in east Texas making $25,000 a year.

The Acting CHAIR. The time of the gentleman has expired.

Mr. GARRETT of New Jersey. I will yield the gentleman another 2 minutes.

Mr. HENSARLING. Madam Chairman, section 4301 will allow it to decide, again, which credit cards, which home mortgages, and which car loans we are allowed to receive, and the list goes on and on and on. Madam Chairman, what this really leads us to is a bailout and job loss bill where the big get bigger, the small get smaller, the taxpayer gets poorer and the economy gets more political.

Madam Chairman, what does a political economy look like? Well, we've seen it. We've seen it in the government-sponsored enterprises of Fannie Mae and Freddie Mac, where we give them these monopoly powers. They're allowed to grow these profits, but then they do a deal with Congress, oh, but you have to have an affordable housing mission. You have to have this political mission. And $1 trillion of taxpayer liability exposure later, we know how that turned out. That's what a political economy is about.

How about GM and Chrysler? When they went bankrupt, all of a sudden, allies of the administration, the United Auto Workers, they end up with a sweetheart deal. And Chrysler, senior secured creditors received 29 cents on the dollars; but the United Auto Workers received 43 cents on the dollar, and they ended up owning the company. How convenient. That's what a political economy looks like.

And look at individual Members of Congress, including the distinguished chairman of this committee. From The Wall Street Journal, dated June 5, 2009, quote, ''The latest self-appointed car czar is Massachusetts' own BARNEY FRANK, who intervened this week to save a GM distribution center in Norton, Massachusetts. The warehouse, which employs some 90 people, was slated for closure by the end of the year under GM's restructuring plan. But Mr. FRANK put in a call to GM's CEO, Fritz Henderson, and secured a new lease on life for the facility.'' Now, I respect our chairman. I'm not here to suggest——

The Acting CHAIR. The time of the gentleman has again expired.

Mr. GARRETT of New Jersey. I yield the gentleman an additional 1 minute.

Mr. FRANK of Massachusetts. I will give him a minute because they're listening in Norton.

Mr. HENSARLING. I know that the distinguished chairman relishes this. And, again, I'm not here to suggest that the activity is illegal, was immoral, was even fattening. I'm here to suggest it is what a political economy is all about. I would suggest anyone else besides the chairman of the Financial Services Committee making that telephone call, that facility wouldn't be open today. Under this bill, Madam Chairman, Americans' job security will depend less on how well you perform your job at home and more upon who you know in Washington.

□ 2310

That is what the political economy is all about.

This bill represents an assault on the fundamental economic liberties of the American citizen. You want a home mortgage, you now have to get the approval of the Federal Government. You want to offer a credit product? The Federal Government. If you build a successful business, it can be torn down unless you go to the Federal Government on bended knee.

Fewer jobs, more bailouts, more government control, less personal freedom. It is time to reject this bill.

Mr. FRANK of Massachusetts. I yield 4 minutes to the gentleman from Illinois (Mr. FOSTER).

Mr. FOSTER. I want to thank the chairman for yielding.

I rise in strong support of H.R. 4173, The Wall Street Reform and Consumer Protection Act of 2009. As a member of the House Financial Services Committee that drafted this landmark bill, I'm proud of our chairman's work, and I want to especially thank the chairman for his diligent efforts over the last many months in shepherding this complex piece of legislation to the floor this week.

This historic comprehensive legislation has dozens of moving parts designed to prevent future bailouts and restore financial stability to the marketplace. I make no apologies for its complexity. It is the simplistic view of financial markets that has brought us to this place.

I want, however, to take a moment to highlight a few of the possibly underappreciated aspects of this bill which may ultimately prove to be among the most beneficial.

First, this bill has language authorizing requirements for the inclusion of something called contingent capital into the capital structure of large financial holding companies. Contingent capital is a special form of debt which, when a company gets into trouble, will immediately convert into equity on previously negotiated terms, thus causing the firm to be recapitalized without requiring a penny from the taxpayer. In this sense, a requirement for large firms to carry contingent capital amounts to a requirement that they carry privately funded bailout insurance. The elegance of this solution is that it is market based and privately funded.

For large financial firms that are poorly run, the market-imposed terms on which they could receive contingent capital could be more onerous than their better-run competitors. And while not eliminating the need for a systemic dissolution fund, I firmly believe that contingent capital will become the first best line of defense against financial contagion and will serve to mitigate the effects of future crises.

Secondly, this bill significantly reforms the credit rating agencies which played a central role in the crisis last fall by giving inflated ratings to mortgage-backed securities and other financial instruments. In the wake of the Enron accounting scandal, Congress established an independent Public Company Accounting Oversight Board, PCAOB. This board, dominated by

users of accounting reports, was designed and effectively regulates the accounting industry. And this bill, in addition to mandating that the rating agencies establish internal controls to resolve conflicts of interest and institute better corporate governance, also has language which creates a prototype independent committee to oversee the SEC regulation and enforcement of the rating agencies. Like the PCAOB, this oversight committee will be dominated by end users of credit ratings and will serve as a template for future, stronger oversight if the SEC enforcement proves inadequate.

Finally, the last issue that I'd like to highlight is the greater investor protection this bill provides. In particular, this bill contains a provision that makes investment adviser fraud—like that perpetrated by Bernie Madoff—virtually impossible. Specifically, the bill contains language which requires those who advise and manage large amounts of money on behalf of others either to employ an independent custodian to hold those assets or to have an independent set of eyes verifying the accuracy of statements to investors. This simple requirement should give investors peace of mind that what is on their statements each month actually exists.

I have touched on only a few of the historic and beneficial changes in this bill designed to restore market confidence, ensure the end of taxpayer-funded bailouts, and modernize the rules governing our 21st century economy. I hope my colleagues can support this important bill.

Mr. HENSARLING. Madam Chair, at this time I would like to yield 5 minutes to the distinguished ranking member of the Capital Markets Subcommittee and one of the true champions of economic liberty in Congress, the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. I thank the gentleman from Texas.

You know, the American public has spoken. They are opposed to more taxpayer-funded bailouts, they are opposed to more loss of jobs in this country, and they are opposed to bigger and larger and more expensive government. The American public has spoken. Obviously, the majority has failed to listen to them, because we've come to the floor tonight with a major 1,300-page piece of legislation which goes in the exact opposite direction that the American public has asked for.

The bill before us has in it taxpayer-funded bailouts. The bill before us has in it the loss of additional millions of jobs, and of course, with the 1,300 pages that we see here before us, the bill before us has in it an expansive growth of the Federal Government and cost that we have never seen the likes of which during our 200-plus history.

You know, at the beginning of this 2- or 3-hour debate that we've had here on the floor, the chairman of the committee began his remarks by saying that we will have—we will be hearing fantasy tonight, and then he proceeded to give us some of that fantasy, for much of what we've heard from the other side of the aisle is fantasy, whether it's describing their legislation that we're about to vote on later tomorrow or whether describing legislation that we have offered as an alternative to it.

You know, I've heard the chairman say there is nothing in this bill, in the Republican's alternative, dealing with 13(3) and the Federal Reserve powers. I guess the chairman has never taken a look at the Republican substitute.

Mr. FRANK of Massachusetts. Will the gentleman yield?

Mr. GARRETT of New Jersey. I will.

Mr. FRANK of Massachusetts. The gentleman stated the exact opposite of what I said. He's quoting another Member.

I said, in fact, that on 13(3) our bills are very similar. So the gentleman has just put words in my mouth that was the exact opposite of what I said. It was another Member who talked about 13(3). I talked about the similarity of our approach as you had offered it in committee and ours on 13(3).

Mr. GARRETT of New Jersey. I remember in committee that we had similarity, but I remember, because I wrote it down, that there was nothing in our bill with regard to this.

Mr. FRANK of Massachusetts. Another Member said that, yes.

Mr. GARRETT of New Jersey. I thought I heard it from you, just as I thought I heard it from you saying that there was nothing in our bill with regard to executive compensation, and I know that we do have language in our bill which also was discussed in committee with regard to executive compensation. So at least in that area I know I heard this from the chairman, and it is in our bill. I thought I heard the chairman say that there's nothing in here with regard to Federal powers.

Regardless, if it's just one issue or two, I would just ask the chairman to refer back to my earlier comments, the reason we're concerned with the extensive nature of the largeness of the bill is because when it gets so large, 1,300 pages, your side of the aisle is not familiar with what's in your bill, and even our bill, which pales in comparison by size, you fail to know exactly what's in ours as well.

The American public has spoken out and says they're opposed to more taxpayer-funded bailouts. This was one point where we were in discussion just a moment ago, an hour ago, where I did have to point out to the chairman that in your bill, in the Judiciary Committee self-executing amendment, there is language in there which basically perpetuates what has occurred already in this year that the American people are opposed to is taxpayer-funded bailouts.

Let me explain it very quickly.

What happens is the Federal Government is able to set up a taxing mechanism on businesses in this country to the tune of $150 or $200 billion, and until we establish that, you can—the Treasury Secretary can draw on the taxpayer dollar to help fund this mechanism. And even after that is set up, under this provision on page 3, the corporation may, as I said before, convert what is called a receivership—which basically would be putting the business out of business, which is something that the chairman says would occur—but then would allow it to proceed to a chapter 7 or a chapter 11 bankruptcy, and, of course, that basically means that the business is reorganized.

So what's occurring here is we are allowing the Treasury Secretary, a political appointee, to make the decision, the life-and-death decisions of businesses of this country.

□ 2320

And they will say that this company is going to survive, and this company is not going to survive, and this company over here is going to survive on the backs of American taxpayers. This company is going to survive even though it made bad decisions, risky decisions, but for whatever political purposes or otherwise, the Treasury Secretary can sign off and say, take taxpayer dollars, funnel it into that company for a while under the corporations act, under the bridge loans and bridge proposals and what have you, and then under section B on page 3 convert it back into a reorganization and allow it to flourish once again with the blessing of the Treasury Secretary and of this administration and of the American taxpayer as well.

The Acting CHAIR. The time of the gentleman has expired.

Mr. HENSARLING. I yield the gentleman an additional 2 minutes.

Mr. GARRETT of New Jersey. So the bill does have what the American taxpayer does not want to have, which is a continuation of bailouts at their expense.

What else does the bill have that the American public is asking not to have? And that is the loss of jobs. I remember being on this floor, and I do remember this conversation very well standing right over there when the majority leader was standing over here at the beginning of the year, and he was predicting, he was promising that if we only passed the $700 billion or $800 billion stimulus package, as the gentleman from Texas said earlier, that we would see the results immediately, not by the summer, not by the end of the year, not by next year, but we would see immediate job growth in this country. We would never see 8 or 8½ percent unemployment, and we would see the results immediately.

Well, that tune changed when unemployment went up to 8, then 8½ percent, then 9, then 9½, then 10, then 10.2 percent. Then, all of a sudden, their tune changed to say, well, you won't see it immediately. We will see it some time next year. And now, of course,

we're coming to the floor with the majority leader saying that we will see job growth some time next year, but we just need another stimulus package. However many dollars from the American taxpayer pockets that's going to cost, I'm not sure.

Mr. HENSARLING. If the gentleman would just yield on that one point, I would say the results were seen immediately, and that is an additional 3.6 million of our countrymen lost their jobs under this program.

I yield back to the gentleman.

Mr. GARRETT of New Jersey. Thank you. Actually, you're right. We saw two things immediately. We saw the loss of 3½ million jobs during that period of time, and, of course, we saw more borrowing from the American taxpayer and also actually from overseas, China and elsewhere, to the tune of $700 billion or $800 billion. So those are the predictions, those are the promises there.

What do we see in this bill? What we see in the bill is the creation of a number of entities, a number of pieces in this bill that will result in losses of even greater numbers of jobs. Just like we saw the studies showing that if we ever passed cap-and-trade we will be seeing millions of jobs lost there, just as we saw the documentation coming out with the health care bill saying we would lose millions of jobs because of that. Here too studies have looked at the CFPA and said that provision alone would raise the interest rates for businesses.

The Acting CHAIR. The time of the gentleman has again expired.

Mr. HENSARLING. I yield the gentleman 2 additional minutes.

Mr. GARRETT of New Jersey. That provision alone will raise interest rates between 1.4 or 1.6, but say 1.5 percentage points, that means that businesses and individuals trying to get loans will see their loans go from 6 percent up to 7½ percent. That will mean less jobs today and in the future. How many jobs? Well, one study points out roughly over 1 million jobs under that provision alone.

Where else will we be losing jobs? We will be losing jobs due to this whole bailout proposal in this bill. If you put a tax on anything, you're meaning that those businesses can't spend the money here when they have to send it over to the government to be stored over here for some other purposes. So if we are going to ask businesses to spend $150 billion, $200 billion on this new bailout tax, well, some studies have looked at that and said that will result in higher costs for those businesses naturally, less ability for them to invest. If they can't invest it in new plants, materials, and employees, they will be putting it over here. The numbers there we are seeing is around some 450,000 less jobs because of that provision.

You're talking between those two provisions alone in the over millions range of jobs not being created or lost because of this legislation.

So I will leave to later on my last point, which is that this bill obviously also creates bigger government, more expansive growth of government, more expansive takeover of the private sector and private individuals' lives as well, their decisionmaking lives, as Ranking Member BACHUS said at the very beginning comments, all things the American taxpayer has spoken out against.

The American taxpayer has spoken out against taxpayer-funded bailouts. They said we want less job destruction. We want less big government. This bill gives us taxpayer-funded bailouts. This bill gives us destruction of more jobs. And this bill gives us a bigger government. All things the American public is opposed to. And that's why I come to the floor tonight and oppose this piece of legislation.

Mr. FRANK of Massachusetts. I yield 5 minutes to the gentleman from North Carolina (Mr. WATT), a leading member of the committee who has done a great deal on this bill.

Mr. WATT. Madam Chair, I have endured the entire debate this evening, which is now approaching 3 hours, and I've been absolutely fascinated by it. Before I came to the body, I practiced law for 22 years. I've now been in this body 17 years. When I was practicing law, quite often, I had cases in which the facts and the law were on my side, and I would go to court, and I would argue the facts and the law and deal with what was before us.

Sometimes I would have some cases where neither the facts nor the law were on my side. And I would show up in court, and I would argue everything other than what the case was about. Now, that's what my friends on the opposite side of the aisle have been doing tonight, because neither the facts nor the law is on their side this time.

So we've heard about health care. I've been making notes. I was here the whole time. We've heard about socialism. We've heard about supply and demand. We've heard about energy and electricity rates. We've heard that the government intervention caused the economic meltdown, that the Fed ratcheted up the panic and that other government agencies contributed to the panic, and that's how we got into this economic mess.

We've heard almost every speaker talk about the size of the bill. We've heard something about cockroaches. I have no idea what that has to do with this bill. We've heard a lot about czars. We've heard about the 2003 and 2007 Fannie and Freddie purchase of subprime loans, and made it sound like somehow that was our fault rather than your President who was out there pushing home ownership when we were trying to get him to push to provide decent housing for people.

We've heard about credit czars, and we've had our colleagues just pull figures out of the sky. I have no idea where they came from. This bill is going to increase interest rates by a point and a half. I don't know how anybody would ever be able to know that. It's going to decrease jobs by 5 percent. I don't know where that figure came from. It's going to break up Dell. My goodness. I didn't know Dell was a financial entity at all. It's in the computer business, it's not in the financial services business. And we've heard our friends say that they don't want taxpayer bailouts, but they also don't want us to set up a fund that's paid for by the industry to take care of the dissolution of these failing companies.

So what's the solution here? I don't know what their solution is, to be honest with you. The truth of the matter is the private market failed, and we had an economic meltdown. And I think we need some reasonable regulation, which is what this bill does.

We need somebody who is going to show up at work every single morning saying, my primary obligation is to at least think about what is in the interests of consumers. And that's what the consumer financial protection agency's charge and responsibility will be.

And that is what this bill does.

□ 2330

We need to do something about all these predatory loans that were made that are now being foreclosed and have gotten us into the financial mess that we are in, and that's what this bill does. We need to make the derivatives market more transparent and put them on a platform so that the whole world can see what's going on back there in the derivative room, and that's what this bill does.

Now, what do you all want to talk about? You can talk about health care or energy or electricity or cockroaches or whatever you want to talk about. We want to fix this economic system in our financial services industry. That's what this bill does. It is long, it is complex, it is a complex undertaking. Our Chair has done it admirably; he has led this.

What is your proposal? That we just do nothing and let the market take care of itself?

That is not an option, my friend. That is not an option, my friends. That time has passed for a while.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Members are reminded to direct their remarks to the Chair.

Mr. HENSARLING. Before yielding to the other gentleman from Texas, I will yield myself 1 minute.

I heard the gentleman from North Carolina in a spate of candor say he didn't know what the solution was. I do know what the solution is. It's the Republican substitute. I would commend the gentleman to read it. It ends bailouts. Your bill will increase bailouts. It reforms the Federal Reserve.

Your bill increases the powers of the Federal Reserve. This bill protects consumer rights. Your bill constricts consumer rights.

Your bill was stone-cold silent with respect to the government-sponsored

enterprises, but now you protect them. Clearly the GSEs are too big to fail.

Our bill goes to the source of the problem. If the gentleman needs to know what the solution is, I would be happy to provide him with a copy of the Republican substitute.

It is now my privilege, Madam Chair, to yield 5 minutes to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. I thank the gentleman.

I think I want to go back to what really is at stake here and that's choices for the people that borrow money in this country. Back in the fall of last year and in the spring of this year, we were working on legislation that the other side brought forward for credit cards, and everybody has got a credit card story that they have had a bad experience. We passed this big credit card bill.

When we were talking and debating that bill on this very floor, we told the American people be careful here, because what they are saying is they don't trust you to make your own choices, and they are going to tinker with the credit card industry. We said, you know what's going to happen? Interest rates are going to go up. Credit limits are going to go down, payments are going to go up. And what happened?

Rates went up, credit limits went down, and payments went up. Who did that affect? Well, it affected families. More importantly, we said it's going to hurt small businesses because a number of small businesses across this country use credit cards to help with their cash-flow needs of their company.

Now we are here tonight talking about the rest of the credit market. What's going to happen here, one of the gentlemen, several gentlemen have brought up predatory lending.

Well, let me talk about a predatory loan. How about this young businessman that needs to buy another truck and some tools for his plumbing company, and he goes to his banker and he says, you know what, I need an interest-only loan for 12 months until I get my business up and going and I get my new employee generating the revenue, and then I want to convert over to another payment plan at the end of 12 months.

The banker says, well, I would love to do that; I have done that for you in the past. But you know what, we have got this new czar, or czarina, who is in charge of determining what kinds of financial products I can offer, so I can't do that.

So what happens? That plumber can't expand, can't buy another truck, can't hire another employee. Those are the consequences of this.

Where we are headed in this is that we are going to let the Federal Government tell you, because you are not smart enough, according to my colleagues on the other side, to determine what kind of mortgage is appropriate for your family; that you are not smart enough to determine what kind of car loan is appropriate; what kind of student loan is appropriate for you and your family as you are trying to send your daughter or your son to school; that the overdraft privileges that your bank has been extending to you in the past, but because of these new regulations and the interference of government, you may not be extended those, or those charges may go up.

How about that person that wants to experience the American Dream and wants to go start their own business and needs a specialized financing package to be able to get that business off the ground and so initially has a small amount of capital.

The banker is going to take a larger risk, and so he is going to have to price the cost of that loan higher, and he is reluctant to do that because he might be making a predatory loan according to this new czar, this new agency that's going to determine what kind of financial products the American people get to have access to in the future.

You know what, Madam Chairman, I still have faith in the American people because this Nation wasn't built because of its government. This Nation was built because of its people, people that took risks and chances and worked hard and went out and did different things in different ways and made things happen, and they didn't conform to what was the standard.

You see, when we start standardizing everything, we begin to limit the potential for success, and we limit failure, and there is no reward for those who do the extra and do special. That's not what this Nation was built on.

I just recently over the weekend came back from Afghanistan, where our young men and women are doing remarkable things in the name of security, peace, and liberty for our country. You would have thought they would want to talk about, you know, thank you for the President's commitment to additional troops; but this sergeant came up to me as I was about to walk out and go get on a plane. He said, Congressman, you know what really scares me? It's not these Afghani Taliban people. What really scares me is what you all are doing to our country. Every time I turn around you are spending money we don't have. The government is getting into the car business. The government is buying banks. The government is limiting my choices.

You are leaving a legacy, and I am over here fighting for a country. Quite honestly, I look back home and I am not sure the Congress is not destroying our country by taking away the liberties and the freedoms that I am fighting for.

That's the reason tonight and tomorrow, whenever we vote on this, we need to defeat this so that we can preserve liberty and freedom for this country and trust the American people because the American people are smart enough to make their own decisions.

Mr. FRANK of Massachusetts. I have only one speaker left.

I reserve the balance of my time.

Mr. HENSARLING. Madam Chair, might I inquire how much time remains on both sides.

The Acting CHAIR. The gentleman from Texas has 10 minutes remaining, and the gentleman from Massachusetts has 14½ minutes remaining.

Mr. HENSARLING. At this time, Madam Chair, I would like to yield 5 minutes to the distinguished ranking member of the Capital Markets Subcommittee, the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. I thank the Chair, and I thank the gentleman from Texas. Just to go back to a comment—the gentleman from North Carolina made two comments—what is the solution?

Well, the gentleman from Texas said here is our solution, and I leave a copy here in case he has not had an opportunity to read it. It is by size a lot less than what you have before you.

The gentleman from North Carolina also asked about our studies; and where we say this will hurt jobs because you will be raising credit interest rates by 1.4 or 1.6, I average it out to about 1.5 percent. It translates into X number of jobs, millions of jobs lost. The questions are studies before we implement this.

My question to the gentleman is before we pass this legislation today and implement it and impose this burden onto the American business sector and the American public in general, can you tell me which study you are referring to that will not cause a loss of jobs?

Mr. WATT. The gentleman is yielding to me for the purpose of responding to that?

Mr. GARRETT of New Jersey. Yes.

Mr. WATT. I haven't referred to any study because I haven't said that it wasn't going to cost jobs or increase or decrease jobs.

Mr. GARRETT of New Jersey. Reclaiming my time, and there is the point. We have this 1,300-page bill that I would hazard the great guess that the vast majority of this body here tonight has not ever had the opportunity to, nor the inclination to, nor, in fact, did read.

□ 2340

And now we seem to hear that when it comes to what the impact, the vast impact that this will have on our economy, where is there information as to what they inquired that it would do? It is absent.

I spoke before about the point that this bill goes contrary to the American public's claim that they do not want any more bailouts, and I raised reference to one section of the bill which in perpetuity it allows for the creation of switching from receivership into bankruptcy and makes it basically a political decision. Another provision of the bill on page 408 basically says that the Treasury Secretary has unlimited authority to borrow an unlimited

amount of money from the Federal Treasury, which means from the American taxpayer.

How do we see this? Page 408 of the bill, section 3, ''Borrowing authority when fund assets are less than $150 billion.'' Section (B), ''The corporation may borrow, and the Secretary may lend, any amount of funds that, when added to the amount available in the fund on the date the corporation makes a request to borrow funds, would not exceed $150 billion.''

What does that mean? That means today, as we start this program out, there are zero dollars in the fund. The Treasury Secretary can go to the Treasury, meaning the American taxpayer, and ask for $150 billion from the American public, and they could bail out some company, maybe AIG again, as this past administration helped facilitate. And then after that, there's no money in the fund again, so they go back to Treasury and say, We need another $150 billion, because, under the terms of the bill as written right now, there's no money in the fund and they can borrow up to $150 billion. They ask for another $150 billion. And then a company akin to Lehman or something goes under, or another company over here or the auto companies go under, and they pay it all out the next day. How much is in the fund then? Zero. At which point the Treasury Secretary can go back to the American taxpayer a third time and ask for an additional $150 billion.

When does it end? This bill puts absolutely no limit on it whatsoever. It could be $150 billion. It can be $1 trillion. It could be $10 trillion. It's all in the hands of the political appointee, Secretary Geithner, for him to decide where this money goes and how much it goes to, and it can be a political decision because, as we have seen before, he can prop up favorite companies and allow them then to go into receivership and then allow them to come back out of it after he has asked the American public to spend $10 billion, $100 billion, $1 trillion in order to do so. Where is the limitation in this bill? There is absolutely none.

So when the other side of the aisle looks chagrined when we say the American taxpayer is on the hook for bailouts, they need only to look at their own bill, page 408 or page 3 over here in the Judiciary Committee, to see that is an unlimited drain on the American taxpayer, that this will allow perpetual bailouts that are never ending and will be made by political appointees for their favorite companies that they want to prop up to the end of the Earth. That, I think, is reason one why we should be opposed to this bill.

If there's nothing else in this bill besides those few pages, we should all be voting ''no.'' If there's nothing else in this bill, every American listening to this floor debate tonight should be calling up their Member of Congress and saying, Why are you putting us on the hook to bail out bad businesses and bad business decisions? Why are you putting us on the hook to bail out your political favorite companies that you want to bail out, and why do you want to do so without limitation?

Mr. FRANK of Massachusetts. Madam Chair, I reserve the balance of my time.

Mr. HENSARLING. Madam Chair, I yield myself the balance of my time.

Madam Chair, again, what we have before us is the ''Perpetual Wall Street Bailout and Increased Job Losses Through Credit Rationing Act of 2009.''

No matter how much our friends on the other side of the aisle wish to deny it, the only reason to create a bailout fund is to bail someone out. The American people are sick and tired of paying for the bailouts.

Now, my friends on the other side of the aisle say we're not really going to use this bailout fund, which kind of begs the question: Why are you creating it in the first place? Well, it's just going to be used for wind-down cost. Well, in bankruptcy, typically you use the assets of the bankrupt company to do that. So this $150 billion plus the $50 billion line of credit from the Treasury, what's the $200 billion being used for? Well, ultimately it's going to be used to bail out other Wall Street parties, the creditors, the shareholders, the counterparties, just like what was done in AIG.

Now, again the distinguished chairman of the Financial Services Committee says, Well, our bailout fund is like a death penalty. Well, it may be a death penalty, but the death sentence has been commuted for up to 3 years. And, by the way, as it's commuted, just like in the AIG bailout, Societe Generale could walk away with $16.5 billion, a French concern, like they did in AIG. Goldman Sachs could walk away with $14 billion in the bailout like they did in AIG. Merrill Lynch could walk away with $6.2 billion. Deutsche Bank, a German concern, could walk away with $8.5 billion. UBS, a Swiss concern, could walk away with $3.8 billion. These are the counterparties on credit default swaps to AIG, and their legislation would replicate it, Madam Chair.

There's nothing in their legislation that would prevent the entire AIG fiasco from repeating itself, and, if anything, they would triple it, up to 3 years, up to 3 years of bailout authority there.

So not only is the death sentence commuted in their so-called bailout fund, but not unlike the GM and Chrysler cases, we could have a Lazarus-like resurrection. Not unlike old GM and old Chrysler, well, you flip a switch and all of a sudden you take care of your political allies, the United Auto Workers, and you've got new GM and you've got new Chrysler, and all of a sudden they just keep on trucking along. So it's an interesting metaphor to call this a death penalty. What it is is it is a bailout.

Here we all are, Madam Chair, at a very tough time in our Nation's economy and 3.6 million of our fellow citizens have lost their jobs since the President told us if we passed his plan, his government stimulus plan, we'd only have 8 percent unemployment. Still, we know we have 10 percent unemployment. And yet here we have a piece of legislation that's ultimate impact is to make credit more expensive, less available when small businesses are losing jobs by the tens of thousands and thousands. Why, in the middle of one of the great credit contractions in our Nation's economy, would you want to make credit more expensive and less available? It's beyond me, Madam Chair. It is beyond me.

Again, my fear is that under this type of legislation the big will get bigger. This is again Fannie Mae and Freddie Mac, politically favorite firms given a political mission and that blows up. Now, again maybe the Merrill Lynches and the UBSs are taken care of. The school teachers in Mesquite, Texas, they're not taken care of under this legislation. They end up paying for the bailout in this political economy. The big will get bigger and they will be given a political mission. Again, your job will depend not so much on what you do at home but who you know in Washington.

One of the great free market economists of our time, Nobel Laureate Milton Friedman said, ''Sooner or later, and perhaps sooner than many of us expect, an ever bigger government would destroy prosperity that we owe to the free market and the human freedom proclaimed so eloquently in the Declaration of Independence.''

□ 2350

That moment is here, and we must vote for freedom and against this bill.

Mr. FRANK of Massachusetts. May I inquire as to the time remaining?

The Acting CHAIR. The gentleman has 14½ minutes remaining.

Mr. FRANK of Massachusetts. I yield myself such time as I may consume.

First, I have to deal with some of the misstatements that we've heard. There is nothing in here that rations credit. There isn't even anything to refute because there is nothing here they could even misinterpret, Madam Chair, about the rationing of credit. Now, some are particularly upset because we establish a Consumer Protection Agency. In the first place, as far as the banks are concerned, that entity gets no new powers; it takes powers that are already there in the bank's regulators that haven't been used very well.

If my friends on the other side want to go to the American people and say, oh, great, here's one of the differences between the parties, we think you consumers have been very adequately protected, and you don't need to improve that manner of administration, then I will take that debate to the American public.

They tell us that this is bad for small business. The Independent Community Bankers Association supports this bill.

They will be unhappy if bankruptcy is added, I understand that, but as far as the bill now stands, before we get to the bankruptcy clause of the Judiciary Committee amendment—which I'm going to vote for, but insofar as the accusation that it restricts credit, the Independent Community Bankers don't think so, just as when we did the credit card bill and the Republicans said—some of them, some of them voted for it—this is bad for small business and the National Federation of Independent Business said no.

What we say here is—and this is a big difference—we do say that we want to prevent the granting of those kinds of mortgages that get people in trouble because it's not just the individual who gets in trouble; the whole economy suffers. And we do want to ban the kind of practices in the mortgage area—so it's true, it's an expansion of government power. I will say, by the way, that was a constant debate. For much of the past, oh, 15 years, until recently, many Democrats tried to get restrictions on irresponsible subprime mortgages. The Republicans resisted them.

From 1995 to 2007, my Republican friends controlled this House; not a piece of legislation passed to stop mortgages, not a piece of legislation passed to deal with Fannie Mae and Freddie Mac. We did, in 2007, pass such legislation, but the damage had been done.

So, yeah, there is a difference. We want to expand the regulatory power to stop the kind of mortgages from being granted that were a major problem in the crisis. One Member said, Well, we would do nothing to stop the AIG crisis. No, we do many things to stop the AIG crisis. First of all, we do not allow, under the legislation we are putting forward, an entity like AIG to get so overextended by issuing credit default swaps that they can't pay off. They would be restricted because derivatives would be better regulated. They would be restricted because they would not be allowed to be so leveraged because we would give regulators the power to hold them in.

The notion that it's socialism when you have bank regulation is quite odd. We heard Members say this is socialism. There is nothing in here about the ownership of the means of production. There is nothing in here about the government taking over any ongoing institution. Yes, we have bank regulation, and that's the deal. These are people who think that regulation is socialism. We are for regulation. We do believe that the absence of regulation over the last 20 years contributed greatly to this problem.

Now, I know there are people who say, when you start regulating the innovation aspects of the economy, you get into trouble. They said it about Franklin Roosevelt and the Securities Exchange Commission, they said it about Theodore Roosevelt and antitrust. I urge people to go back and read the same old arguments.

Now, the gentleman from Texas (Mr. NEUGEBAUER) said the Federal Reserve will decide that you are too big to fail and you will be advantaged; wrong, wrong, wrong. In the first place, the designation that an entity, a financial entity—by the way, we heard some comments about Dell and American Airlines, which are not covered under this bill. They are not financial holding companies and could not be made financial holding companies. So Dell and American Airlines are total red herrings.

What we have here is the ability of a group of the existing regulators—not the Federal Reserve—to decide that a particular institution is so big and so overleveraged that it's a danger. But they don't get designated and then carried around; coordinated with that is a restriction on what they do. They are not told you're too big to fail, go out and make more money. They are told, you are so big that if you fail because of problems, raise your capital, cut back on your activity, and if you're AIG, stop selling the credit default swaps.

There is this very real difference between the bills. Their bill is very small because it does nothing to retard the kind of activity that got us in trouble. It does not stop over-leveraging, it does not stop unregulated derivative trading, it does not stop credit default swaps without anything to back them up, it does not stop any subprime lending abuses. So yes, that's their view, and they're very clear: Leave it to the private market. We say the private market always does better with sensible regulation.

When Roosevelt and Wilson put antitrust into place, I think they did a good thing. When Franklin Roosevelt did the SEC and the Investment Company Act, those were good things. So, yes, a lack of regulation we believe did cause this great problem.

Now, we get into the bailout issue because the Judiciary Committee, frankly, copied the Republican bill by saying you should use chapter 11. The Republican bill talks about chapter 14—the equivalent of chapter 11 here. Here's what, however, the Judiciary language is subject to. It is subject to—we are talking about now the fund. Yes, somebody could be put into chapter 11, but none of the money could be spent that's in the fund. It's raised not by taxpayers, but by an assessment.

On page 399, ''The Fund shall be available to the corporation for use with respect to the dissolution of a covered financial company to cover the costs incurred by the corporation. The Fund shall not be used in any manner to benefit any officer or director of such company.''

It also then says, on page 397, here is the fund, this is the purpose of the fund, ''to facilitate and provide for the orderly and complete dissolution of any failed financial company or companies that pose a systemic threat to the financial markets or economy as determined under 1603(b).'' The language about Judiciary does not alter that in any respect. It says that the Fund can only be used for dissolution.

Now, it is true, they said, well, what about AIG when they paid off all these people? This is precisely to prevent the repetition. That was done, by the way, as Members will know, under section 13(3). It can no longer be done. We have changed section 13(3), so that should not happen again.

What they did was to say—and this was in the Bush administration—they said, look, we don't have the discretion to pick and choose, so we are doing exactly the opposite of AIG. With AIG, it was the ruling of the Bush administration's top officials, concurred in by President Bush without any congressional input, that they had to pay off every creditor of AIG because they got the legal authority to pick and choose. They said, we can put them all into bankruptcy, we have Lehman Brothers, and the markets will end—Secretary Paulsen said—or we can pay everybody.

We give them the authority precisely to avoid that dilemma. And by the way, AIG was not being put out of business. It is not AIG. AIG was not put under dissolution; they are being kept going. That could not happen. What we say is, in the future, if you think an entity like AIG has gotten too big and owes too many people too much money, you take it over and you spend money only to wind it down and to dissolve it. If there was some notion that it could be kept going, then none of these monies could be used for it.

Let me read it again: ''To facilitate and provide for the orderly and complete dissolution of any failed financial company.'' That is a restriction on the use of the fund—it's not a taxpayer fund, but even of the other funds.

And then on page 288 it says, ''The Corporation is authorized to take the stabilization actions''—including the bankruptcy—''only if the Secretary and the Corporation determine that it is necessary for the purpose of financial stability and not for the purpose of preserving the covered financial company.'' And it then says, ''The Corporation ensures that any funds from taxpayers shall be repaid as part of the resolution process before payments are made to creditors.'' Funds will be repaid if there is a borrowing. Funds go to the taxpayer before a nickel goes to the creditors.

These are the inaccuracies that we have heard. There is no Dell or American Airlines in here. Oh, by the way, there is no permanent bailout fund either because that fund and the borrowing authority the gentleman from New Jersey talks about sunsets in 2013. The borrowing authority is sunsetted at 2013. So permanent is true if you believe that the world is ending on January 1, 2014. Now, I know the Republicans believe the world began on January 21, 2009, and all the bad things that happened never happened under Bush—they didn't fail to vote for them. They all happened in 2009.

□ 0000

Again, as my partner said to me, that was also the day of a terrible, terrible disease outbreak, mass Republican amnesia on January 21, 2009, when they forgot what all these—We've heard talk about job losses. Isn't it interesting that the gentleman from Texas cannot remember that a single job was lost before January 20. He talks about the job losses since the stimulus bill was passed. In fact, this recession, the worst since the Depression, began in 2007, in December; and there was enormous job loss under President Bush. Job loss has diminished recently.

So, yes, I will acknowledge that the Obama recovery from the Bush recession has been slower than we would have liked. But every sensible economist understands that the question is not whether there were any job losses at all, or whether you have affected the rate. And clearly the economic recovery plan has affected the rate. And further things will affect it further.

I yield to my friend from North Carolina.

Mr. WATT. I just wanted to inquire of the chairman whether he saw anything in the bill about cockroaches.

Mr. FRANK of Massachusetts. No, I did not, and I did read the whole bill. And by the way, I also would object, there was some reference to steamroll, or not having the opportunity to read it. We have had complaints from the minority about too many markups and too many hearings and people on the staffs of both sides, and there was a magnificent group of staffers on both sides who have given the American people the best bargain they've ever gotten with the amount of work both sides have done on this. So, yeah, this has been very thoroughly vetted and discussed and debated and all the deadlines have been met.

But here's the fundamental difference: we do not have a bailout fund. We have a fund that will come from the financial institutions that can only be used, as I said, for dissolution, that will sunset in terms of borrowing authority in 2013, in terms of borrowing authority. It is used so you don't just say, okay, you're out of business; we end you tomorrow. It is to avoid what Secretary Paulsen and Ben Bernanke and George Bush told us was the dilemma of a year and half ago, all or nothing. We've got to use these funds to wind it down in an orderly way.

But here's the bigger difference: the Republican bill doesn't even try to stop the situation from arising. That's the difference. We analyzed the various things, too much leverage, unregulated derivatives, subprime loans, executive bonuses that encourage people to take too many risks. Their bill says, no, they're none of the government's business. It is true, every time you try to prevent a bad practice by regulation, you're expanding government power. That's true. An unregulated derivative market versus a regulated derivative market, that's more government power.

Restrictions on irresponsible subprime loans, that's government power. Telling an institution they can't be overleveraged, that's government power. In terms of breaking up companies, no one's breaking up Dell or American Airlines. That is fantasy. What we say is we first try to stop an institution from being so overleveraged and so big that it causes a problem. So, yes, we do say that the regulators should be able to step in if the Systemic Risk Council says so and restrain them from doing things. And, yes, the Federal Reserve is the agent, so the Federal Reserve gets more powers under the Systemic Risk Council.

We, by the way, take away more power in our bill with the Consumer Protection Agency from the Federal Reserve than any other agency. We limit section 13(3) of the Federal Reserve very severely. We do empower them as the agent of the Systemic Risk Council to do what the Republicans say you should never do: tell a company you've gotten too big and owe too much money and need to slow down. Break them up because their parts have begun to pull apart.

AIG should not have been allowed to be an insurance company and a credit default swap handler. And, yes, under the amendments we've adopted someone could have come in and said, okay guys, stay in the insurance business, but don't put us all at risk by doing all of these other things.

So that's the fundamental difference. The Republican position is, business knows best. Do not have any rules, do not prevent—and literally, nothing in their bill would retard any of the irresponsible, reckless, overleveraging that happened and led to the crisis.

And then they said, if there is a crisis, just let them go bankrupt. We say, first of all, let's try to prevent the crisis. Let's try to step in and slow it down.

And if that's socialism, I guess the antitrust laws are socialism by that definition, and the Republican equivalents of today's Republicans called Theodore Roosevelt a socialist. They turned against him. They called Franklin Roosevelt a socialist because he created the Securities and Exchange Commission. They call people socialists when they want to do regulation. The Independent Community Bankers don't think so. And the consumers of America do not believe that being protected from abuses is socialism. I look forward to tomorrow when we debate the amendments.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, December 2, 2009.

Hon. BARNEY FRANK,
Chairman, Financial Services Committee, 2129 Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing regarding H.R. 2609, the ''Federal Insurance Office Act of 2009.'' As you know, the Committee on Ways and Means had jurisdictional and other concerns with provisions of this bill. I note that in 2008, we exchanged letters on similar legislation (H.R. 5840) introduced in the 110th Congress.

Earlier today, the bill was amended during markup by your Committee to address the concerns my staff and I have raised. For example, the bill was amended: to preserve USTR's authorities, including over development and coordination of U.S. international trade policy and the administration of the U.S. trade agreements program; to modify the types of agreements that are covered by the bill and to provide for their joint negotiation by USTR and the U.S. Department of the Treasury; to require that annual reports by the Federal Insurance Office be provided to the Committee on Ways and Means; and to modify the standards and process for preempting State law. I appreciate your willingness, and the willingness of your staff, to work with me and my staff on this important legislation.

To expedite this legislation for Floor consideration, the Committee on Ways and Means will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this bill or similar legislation in the future.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 2609, and would ask that a copy of our exchange of letters on this matter be included in the committee report on the bill and in the CONGRESSIONAL RECORD during House Floor consideration of this bill.

Once again, thank you for your work and cooperation on this legislation.

Sincerely,

CHARLES B. RANGEL,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, December 3, 2009.

Hon. CHARLES B. RANGEL,
Chairman, Committee on Ways and Means, 1102 Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN RANGEL: Thank you for your letter regarding your committee's interest in H.R. 2609, the ''Federal Insurance Office Act of 2009.''

I appreciate your willingness to support expediting floor consideration of this important legislation today. I understand and agree that this is without prejudice to your Committee's jurisdictional interests in this legislation as amended or similar legislation in the future. In the event a House-Senate conference on this or similar legislation is convened, I would support your request for an appropriate number of conferees.

I will include a copy of your letter and this response in the committee report on the bill and in the Congressional Record during House floor consideration of this bill. Thank you for your cooperation as we work towards enactment of this legislation.

BARNEY FRANK,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC, December 3, 2009.

Hon. BARNEY FRANK,
Chairman, House Committee on Financial Services, 2129 Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR CHAIRMAN FRANK: I am writing to you concerning the jurisdictional interest of the Committee on Oversight and Government Reform in H.R. 4173, ''The Wall Street Reform and Consumer Protection Act of 2009''.

I appreciate your effort to work with the Oversight Committee regarding those provisions of H.R. 4173 that fall within the Committee's jurisdiction. This includes provisions relating to the audit authorities of the Comptroller General, federal personnel matters, the applicability of the Federal Advisory Committee Act and the Freedom of Information Act, amendments to the Inspectors General Act, and governmentwide reporting requirements for federal agencies.

As you know, the Oversight Committee was one of the committees receiving an additional referral of this bill. Because of the cooperation between our two committees, further consideration in the Oversight Committee is unnecessary. However, this letter should not be construed as a waiver of the Oversight Committee's legislative jurisdiction over subjects addressed in H.R. 4173 that fall within the jurisdiction of the Committee. I request your support for the appointment of conferees from the Oversight Committee should H.R. 4173 or a similar bill be considered in conference with the Senate.

Please include a copy of this letter and your response in the Congressional Record during consideration of this legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

EDOLPHUS TOWNS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, December 3, 2009.

Hon. EDOLPHUS TOWNS,
Chairman, Committee on Oversight and Government Reform, 2157 Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN TOWNS: I am writing in response to your letter regarding H.R. 4173, ''The Wall Street Reform and Consumer Protection Act of 2009''.

I wish to confirm our mutual understanding on this bill. I recognize that certain provisions of the bill fall within the jurisdiction of the Committee on Oversight and Government Reform. However, I appreciate your willingness to forego committee action on H.R. 4173 in order to allow the bill to come to the floor expeditiously. I agree that your decision to forego further action on this bill should not be construed as a waiver of the Oversight Committee's legislative jurisdiction. I would support your request for conferees on those provisions within your jurisdiction should this or a similar bill be the subject of a House-Senate conference.

I will include this exchange of letters in the Congressional Record when this bill is considered by the House. Thank you again for your assistance.

BARNEY FRANK,
Chairman.

Mr. POMEROY. Madam Chair, I rise today in support of H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. I would like to thank Chairman PETERSON of the Agriculture Committee for his leadership and work to produce legislation that regulates the futures markets and brings transparency to the dark corners of the financial markets. I would also like to thank Chairman FRANK of the Financial Services Committee for his leadership and efforts in crafting the greater overall regulatory package.

Madam Chair, the unchecked greed and excesses of Wall Street have brought our economy to its knees, placed hardship on millions of American families and dimmed the prospect of leaving behind a better life for our children. The volatility in the oil prices and the crash of the financial markets were fueled by outrageous short term profits at the expense of our shared long term prosperity. These markets resemble the Wild West, and are void of transparency or effective regulation.

Today, Congress has before it a commonsense reform package that will assure the American people that what happened to create the financial meltdown will not happen again. H.R. 4173 would place limits on speculators, preventing them from dominating the markets, and also bring transparency to the markets. The bill will also give regulators the information they need to properly police the markets and the authority to identify and protect against systemic risk. H.R. 4173 protects the economy from irresponsible too-big-to-fail companies like AIG, by creating a responsible mechanism to dissolve them without putting the American tax payer on the hook. It is essential that consumers, farmers, and businesses have access to a reliable source of credit and financing that does not dry up because Wall Street tries to gamble away our future.

Madam Chair, the landmark Wall Street Reform and Consumer Protection Act of 2009 puts the interests of consumers, small business and the millions of Americans dependent on their 401Ks for retirement, first. I urge my colleagues to support H.R. 4173.

Ms. JACKSON-LEE of Texas. Madam Chair, today I rise in support of H.R. 4173—''The Wall Street Reform and Consumer Protection Act.'' I support this legislation because I believe that it is an important step in preventing the conditions that created last year's financial crisis from occurring again.

Last year's financial crisis put hundreds of thousands of Americans out of work and our economy into turmoil. The White House estimates that 5 trillion dollars worth of American household wealth disappeared in approximately three months. Credit markets froze as bank after bank after bank failed or require government assistance to stay afloat. This weak financial system and credit market impacted businesses large and small throughout the Nation. Furthermore, the weak credit market affected student loans, credit cards, and purchases of automobiles and homes.

In response, Congress, in collaboration with President Obama passed sweeping legislation to help hardworking Americans soften the blow from the worst economy in years.

Although I still believe that our response was necessary to help bring America out of the recession, we must ensure that actors in the financial industry are never again able to behave recklessly as to threaten the economy of not only our Nation, but also the world. I do not believe that the financial industry acts with malice toward people or our economy; however, some firms in the financial industry are prone to taking risks in a manner that threatens our economic structure. As President Obama said in New York on September 15, ''We will not go back to the days of reckless behavior and unchecked excess at the heart of the crisis, where too many were motivated only by the appetite for quick bills and bloated bonuses. Those on Wall Street cannot resume taking risks without regard for consequences, and expect that next time, American taxpayers will be there to break the fall.''

This legislation is a response to the dangers and loopholes that persist, and it will serve to protect the American investors, students, home and auto buyers, and business owners. A new Consumer Financial Protection Agency will protect families and small businesses by ensuring that bank loans, mortgages, and credit cards are fair, affordable, understandable, and transparent.

We have tough rules that keep companies from selling us faulty toasters that burn down our houses, but there is currently no agency that has as its sole mission oversight of potentially harmful financial products sold to consumers. This critical enforcement is necessary to ensure that consumers get information that is clear and concise from banks, mortgage servicers, and credit card companies. It is critical to prevent the financial industry from offering predatory mortgage loans to people who can't afford repayment that marked the subprime lending era. Finally, it will put in place common sense regulations to stop abuses by the financial industry, such as payday lending and exorbitant overdraft fees.

Secondly, this legislation will put an end to ''too big to fail'' financial firms, providing the government with the tools—funded by big banks and financial firms and NOT taxpayers—it needs to manage financial crises so we are not forced to choose between bailouts and financial collapse.

This includes the ability to preemptively dismantle big banks whose risky and irresponsible behavior could bring down the entire economy, as well as an orderly process to wind down failing firms.

This legislation will end taxpayer-funded bailouts and Help ensure American taxpayers are never again on the hook for bailing them out by requiring big banks and other financial institutions (with $50 billion in assets) to foot the bill for any bailouts in the future. These institutions would pay assessments based on a company's potential risk to the whole financial system if they were to fail.

These new consumer safeguards will require that all financial firms that pose risk to the financial system—not just banks—are subject to strong supervision and regulation, including stronger capital standards and leverage rules.

They will increase transparency at the Federal Reserve, which has played an enormous role in shoring up big banks and other financial institutions in this crisis, subjecting it to scrutiny by Congress's Government Accountability Office with audits of the Fed's lending programs.

This legislation will also stop predatory and irresponsible mortgage loan practices including prepayment penalties, deceptive mortgage documentation, and making extra profits for steering borrowers to higher cost loans that played a major role in the current financial meltdown. Help ensure that the mortgage industry follows basic principles of sound lending and consumer protection.

The legislation also imposes tough new rules on the riskiest financial practices by strengthening enforcement by the Securities and Exchange Commission to better protect investors and prevent future Bernie Madoff Ponzi schemes.

It creates rules to curtail excess speculation in derivatives and growing use of unregulated credit default swaps that devastated AIG and Bear Stearns.

It provides more transparency and tougher regulation of hedge funds, private equity firms

and credit rating agencies, whose seal of approval gave way to excessively risky practices that led to a financial collapse.

Finally, it requires investment advisors to act for the sole benefit of their client under the law, exercising the highest standard of care.

Finally, this legislation addresses egregious executive pay compensations by putting an end to compensation practices that encourage executives to take excessive risk at the expense of their companies, shareholders, employees, and ultimately the American taxpayer.

It also provides shareholders of public companies with an annual, non-binding vote on executive compensation and golden parachutes for the top five executives, requires independent directors on the compensation committees of public companies, and authorizes the SEC to restrict or prohibit ''inappropriate or imprudently risky compensation practices'' at large financial firms (with at least $1 billion in assets).

In conclusion, this legislation will modernize America's financial regulations as we seek to prevent last year's financial conditions from ever happening again. America is on the road to recovery, and we need this legislation to ensure that the recovery is permanent.

Mr. MARKEY of Massachusetts. Madam Speaker, one of the most critical elements of the legislation now before us is the establishment of tough new regulation of the over-the-counter derivatives market. This reform is long overdue and I strongly support the legislation now before us.

I am pleased to say that I can wholeheartedly support this bill because—thanks to language agreed upon by Chairman PETERSON, Chairman WAXMAN and myself—it ensures that the expansion of Commodity Futures Trading Commission's authority over derivatives will not in any way limit the Federal Energy Regulatory Commission's authority to regulate energy markets. FERC plays a critical role in ensuring that those markets deliver energy reliably and at just and reasonable rates.

The bill preserves FERC's role in three ways:

First, the bill amends the Commodity Exchange Act to fully preserve FERC's authority over agreements, contracts, and transactions entered into pursuant to a FERC-approved tariff or rate schedule. An exception is made for instruments that are executed, traded, or cleared on a CFTC-registered entity. However, it is the drafters' understanding and intention that CFTC cannot construe this exception to limit FERC's underlying authority. For example, FERC-regulated entities, such as Regional Transmission Organizations and Independent System Operators, would not be required to register with CFTC based on their utilization of Financial Transmission Rights or other instruments to facilitate the physical operation of the electric grid. Nor will CFTC require instruments of that nature to be executed, traded, or cleared on some other CFTC-registered entity.

Second, in any area where FERC and CFTC have overlapping authority, the bill requires the two agencies to conclude a memorandum of understanding delineating their respective areas so as to avoid conflicting or duplicative regulation. Where FERC has regulatory authority, CFTC is permitted to step back and let FERC do its job. It is the drafters' understanding and expectation that CFTC will recognize FERC's primacy with regard to energy markets that it comprehensively regulates.

Finally, the bill states that it does not in any way limit or affect FERC's existing authority, under Section 222 of the Federal Power Act and Section 4A of the Natural Gas Act, to protect against manipulation of the electricity and natural gas markets. As one of the principal authors of these anti-manipulation provisions, which were included in the Energy Policy Act of 2005, I see the preservation of this authority as critical to ensuring fair and transparent energy markets. These provisions were drafted broadly to allow FERC to protect against the use of any manipulative or deceptive device or contrivance ''in connection with'' FERC-regulated electricity and natural gas markets, regardless of where such manipulation occurs.

With these elements now included in the legislation, I strongly urge my colleagues to vote ''yes'' on this legislation.

Mr. FRANK of Massachusetts. I yield back the balance of my time.

The Acting CHAIR. All time for general debate has expired.

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WATT) having assumed the chair, Ms. TITUS, Acting Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, had come to no resolution thereon.

IMMIGRATION CREATES JOBS

(Mr. POLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POLIS. Mr. Speaker, I rise today to highlight a report just released by the Fiscal Policy Institute, a nonpartisan research group, regarding the contributions of immigrants in the 25 largest U.S. metropolitan areas. The report makes official what we have known all along: Immigration and economic growth go hand-in-hand. That's right. Immigrants boost economic productivity and create jobs.

This has been true throughout our Nation's history. It's been true during boom times and during tough times. It's true yesterday, today, and tomorrow. Immigrants help our economy. Cities with a growing proportion of foreign-born workers have ''well above average economic growth.'' Immigrants expand the labor and consumer markets and fuel growth.

In my home State of Colorado, immigrant workers and business owners have added billions of dollars and tens of thousands of jobs. The usual suspects will cry we lie with these facts. But their prejudices will no longer prey on our uncertainties. Thanks to this report, we can all say we know better. Together we can embrace comprehensive immigration reform, help our Nation recover, and create jobs for Americans.

IMMIGRANTS AND THE ECONOMY

[From the Fiscal Policy Institute]

EXECUTIVE SUMMARY

This report examines the economic role of immigrants in the 25 largest metropolitan areas in the United States. The results are clear: immigrants contribute to the economy in direct relation to their share of the population. The economy of metro areas grows in tandem with immigrant share of the labor force. And, immigrants work across the occupational spectrum, from high-paying professional jobs to low-wage service employment.

Immigrants contribute significantly to the U.S. economy. In the 25 largest metropolitan areas combined, immigrants make up 20 percent of the population and are responsible for 20 percent of economic output. Together, these metro areas comprise 42 percent of the total population of the country, 66 percent of all immigrants, and half of the country's total Gross Domestic Product. This report looks at all U.S. residents who were born in another country, regardless of immigration status or year of arrival in the United States.

1. IMMIGRATION AND ECONOMIC GROWTH OF METRO AREAS GO HAND IN HAND

An analysis of data from the past decade and a half show that in the 25 largest metropolitan areas, immigration and economic growth go hand in hand. That's easily understandable: Economic growth and labor force growth are closely connected, and immigrants are likely to move to areas where there are jobs, and not to areas where there are not.

Between 1990 and 2006, the metropolitan areas with the fastest economic growth were also the areas with the greatest increase in immigrant share of the labor force. The economies of Phoenix, Dallas, and Houston saw the fastest growth in immigrant share of labor force, while all showed well above average economic growth in these years and Phoenix experienced the fastest growth of all metro areas. By contrast, Cleveland, Pittsburgh and Detroit metro areas experienced the slowest economic growth and among the smallest increases in immigrant share of labor force.

Economic growth does not guarantee, however, that pay and other conditions of employment improve significantly for all workers. The challenge is to make sure that immigrants and U.S.-born workers struggling in low-wage jobs share in the benefits of economic growth.

2. IMMIGRANTS CONTRIBUTE TO THE ECONOMY IN PROPORTION TO THEIR SHARE OF THE POPULATION

The most striking finding in the analysis of 25 metro areas is how closely immigrant share of economic output matches immigrant share of the population. From the Pittsburgh metro area, where immigrants make up 3 percent of the population and 4 percent of economic output, to the Miami metro area, where immigrants represent 37 percent of all residents and 38 percent of economic output, immigrants are playing a consistently proportionate role in local economies.

The Immigrant Economic Contribution Ratio (IECR) captures this relationship, measuring the ratio of immigrant share of economic output to immigrant share of population. An IECR of 1.00 would show that immigrants contribute to the economy in exact proportion to their share of the population; above 1.00 indicates a higher contribution than share of population and below indicates lower.