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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The PRESIDING OFFICER. Our visiting Chaplain today is Father Claude Pomerleau from the University of Portland, OR. Father Pomerleau will lead us in prayer.

The guest Chaplain offered the following prayer:

Let us pray.

O Lord, Master of the universe and everything in it, Your generosity gives us life, gives us hope, gives us the imagination to envision a world where no child weeps, where violence is a dark memory, where peace is the story of every day and year.

As the gift of this day unfolds, as the creative men and women in this Chamber turn their gifts and talents to making laws that seek to elevate and protect the lives of millions of their fellow Americans, do not let them lose the sweet peace and long vision of this first moment. In the face of so many distractions and challenges, may they be filled with grace and generosity, wisdom and wonder, calm and compassion. Open their hearts, Lord, and open their minds, and fill them with Your love, and make of them beacons of Your light, so that their deliberations this day take this country and this sweet planet ever closer to Your peace and Your joy. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PATRICK J. LEAHY led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 6, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of S. 3217, which is the Wall Street reform legislation. The time until 10 a.m. will be for debate with respect to the Tester-Hutchison amendment dealing with FDIC insurance premiums. At 10 a.m., the Senate will proceed to a vote in relation to that amendment. Additional votes are expected to occur throughout the day in relation to amendments to the Wall Street reform bill. Currently, Shelby amendment No. 3826 regarding consumer protection is pending. The next amendment upon disposition of that amendment will be the Sanders amendment regarding an audit of the Federal Reserve. That is amendment No. 3738.

As a reminder, there will be an all-Senators briefing on the START treaty and related national security issues from 4:30 to 5:30 p.m. today. We will remain in session during that time.

We expect to arrive at a time for voting on the Shelby amendment. If not, there will be a motion to table that amendment. We have a lot of amendments to get through, and we are going to work into the night. We have work we need to do tomorrow. So everyone should be aware, we have a lot of issues we have to resolve on this most important legislation.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Vermont.

Mr. LEAHY. Madam President, I thank the distinguished Republican leader for letting me step forward ahead of him.

WELCOMING THE GUEST CHAPLAIN

Mr. LEAHY. Madam President, I just want to note what a great pride it is in our family to have welcomed the visiting pastor today, Father Claude Pomerleau, who is also my wife Marcelle's brother. He, with the gracious concurrence of our Chaplain, Dr. Black, has opened the Senate on other occasions. But it is with a great deal of pride for both Marcelle and myself when he is here and has a chance to visit with us. Father Pomerleau is a dear friend of all our family and has been a guide and spiritual leader for our family for decades.

Madam President, I ask unanimous consent that a short bio of him by the University of Portland, which even speaks about his clarinet playing, be printed in the RECORD.

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

CAMPUS MINISTRY: REV. CLAUDE POMERLEAU, C.S.C.

Rev. Claude Pomerleau, C.S.C., was born of French Canadian parents in Newport, Vermont on beautiful Lake Memphermagog,

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

a lake that connects geographically and spiritually to the Plains of Abraham in Quebec. He began his academic career studying engineering and philosophy at Notre Dame followed by theology in France and Italy. He earned his Ph.D. in International Relations from the University of Denver in 1975 and has taught at the University of Notre Dame and the University of Chile. Since 1991, he has served as an associate professor in the department of history and political science here at the University of Portland and became department chair in 1994. Fr. Claude also currently serves at the Director of the Social Justice Program and is the Religious Superior of the Holy Cross brothers and priests at UP. He enjoys traveling and observing the universe, but especially visiting the University of Chile where he is a visiting professor in the summer. Fr. Claude is an accomplished clarinet player, sometimes playing loudly and late at night in Tyson Hall where he is grateful to be chaplain to a bunch of wonderfully tolerant students.

Mr. LEAHY. Madam President, again, I thank our leaders, and I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Republican leader is recognized.

FINANCIAL REGULATORY REFORM

Mr. McCONNELL. Madam President, last night, the Senate took a strong stance on protecting taxpayers from the unintended consequences of a bill that was originally meant to hold Wall Street accountable for its mistakes.

Put aside for a moment the latest talking points the other side is using about Republicans. Our goal throughout the debate has been to protect taxpayers who got burned during the last crisis, and last night's vote showed that those efforts are beginning to yield results.

A $50 billion fund for failing financial firms that would have distorted the market by encouraging the same kinds of risky investments that led to the last crisis is now out of the bill.

A provision that would have given investors in failing firms special treatment is out. Congress will now have to approve any government effort to ensure bank debt. So improvements are being made to this financial regulatory bill in the right direction.

Now it is time to focus on what has emerged as another central point of contention, and that is the new government bureaucracy this bill would create over at the Fed. The first thing to know about this new agency is that Congress would not have any power over it. The second thing to know is what it would do. Some of that is still vague, but the ambiguities are part of the problem.

What we do know is that this new agency would be authorized to gather information on banking and purchasing patterns and on anyone—anyone—operating in consumer financial markets. One provision, section 1071, could lead financial institutions to maintain a record on the number and dollar amount that each customer deposits at bank branches and ATMs.

Now, understandably, a lot of Americans and a lot of small business owners have serious concerns about all of this. They are also concerned about the potential of this bill to further dry up credit at a time when they are trying to dig themselves out of a recession.

We received a letter just yesterday from groups representing hundreds of thousands of businesses—from florists to orthodontists to builders to car dealers—all concerned about the potential impact this new agency would have.

Now, let me state the obvious: None of these businesses had anything whatsoever to do with the financial crisis. None of these businesses had anything to do with the financial crisis. Why on Earth would we want to punish them for the reckless behavior we saw on Wall Street? Why on Earth would we want to punish these small businesses for the reckless behavior we saw on Wall Street?

The fact is, this agency is more about using this crisis as an opportunity to slip a vast new European-style regulatory bureaucracy past the American people than it is about holding Wall Street accountable.

I say let's focus on Wall Street and the GSEs and leave ordinary Americans out of this. Let's put the middle-class families and small business owners who shouldered the burden of this crisis ahead of the bureaucratic wish lists in Washington. At a moment of near double-digit unemployment and exploding debts and deficits, let's have at least one Democratic idea for expanding the reach of government on the shelf.

Later today, the Senate will have an opportunity to blunt the potential impact of this agency. Senator SHELBY and I have joined several cosponsors on an amendment that would deflect the focus of this bill from Main Street and back to Wall Street where it belongs. Let's take the bill off Main Street and send it back to Wall Street where it belongs.

The National Federation of Independent Business supports our amendment because, in the place of this new bureaucratic agency, it would establish a new division within the FDIC that would oversee mortgage originators and other big financial service providers. That is where the target should lie—not on the backs of America's small businesses and middle-class Americans who expected to be protected by the bill, not punished by it.

I urge my colleagues on both sides of the aisle not to lose our focus in this debate. I also urge everyone to support the Shelby-McConnell amendment.

Madam President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The bill clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd/Lincoln) amendment No. 3739, in the nature of a substitute.

Shelby amendment No. 3826 (to amendment No. 3739), to establish a Division of Consumer Financial Protection within the Federal Deposit Insurance Corporation.

Tester amendment No. 3749 (to amendment No. 3739), to require the Corporation to amend the definition of the term "assessment base."

AMENDMENT NO. 3749

The PRESIDING OFFICER. Under the previous order, the time until 10 a.m. will be for debate on amendment No. 3749, with the time equally divided and controlled in the usual form.

The Senator from Nebraska.

Mr. JOHANNS. Madam President, I am just going to speak for 2 minutes this morning, but I would like to stand to take a moment to voice my support for the Tester-Hutchison amendment.

This amendment will ensure that banks of all sizes pay their fair share by broadening the assessment base that is used by the FDIC. The FDIC would determine bank premiums by basing it on total assets, not just domestic deposits. For far too long, community banks have paid a disproportionate share of the deposit insurance premiums.

This amendment levels the playing field. It is a good piece of policy. It will put community banks on a more equal footing with the large bank conglomerates. So I urge my colleagues to vote for this commonsense amendment.

Let me wrap up by saying, the Independent Community Bankers have looked at this amendment. This amendment would reduce assessments for 98 percent of the banks with less than $10 billion in assets, keeping nearly $4.5 billion in the banks—much needed capital to make our economy grow.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mrs. HUTCHISON. Madam President, how much time is on our side?

The PRESIDING OFFICER. Eight minutes.

Mrs. HUTCHISON. Madam President, would you notify me when I have consumed 5 minutes because there is another speaker.

The PRESIDING OFFICER. Yes.

Mrs. HUTCHISON. Thank you, Madam President.

I rise to join my colleague, Senator TESTER, and an increasing number of cosponsors, in support of our amendment which will ensure that banks of all sizes pay their fair share in deposit insurance for the risk they pose to the banking system.

Our amendment is intended to level the playing field for our safe community banks that for far too long have paid assessments into the FDIC insurance fund above and beyond the risk they pose.

The FDIC levies deposit insurance premiums on a bank's total domestic deposits, but domestic deposits are not the best means to analyze the safety of banks. Financial assets other than deposits create risk in the system. Nondeposit assets are held disproportionately by larger noncommunity banks and can be more complex and more risky.

Community banks with less than $10 billion in assets rely heavily on customer deposits for funding. This penalizes safe institutions by forcing them to pay deposit insurance premiums above and beyond the risk they pose to the banking system.

Despite making up just 20 percent of the Nation's assets, these community banks contribute 30 percent of the premiums to the deposit insurance fund. At the same time, large banks hold 80 percent of the banking industry's assets. Yet they just pay 70 percent of the premiums.

We must fix this inequality. That is what the Tester-Hutchison measure does. It will do so by requiring the FDIC to change the assessment base to a more accurate measure: a bank's total assets, less tangible capital. This change will broaden the assessment base and will better measure the risk a bank poses.

A bank's assets include its loans outstanding and securities held. One need only look back to the last 2 years to know those are the assets that are more likely to show a bank's exposure to risk than just plain deposits. It wasn't a bank's deposits that contributed to the financial meltdown. The meltdown was caused by bad mortgages which were packaged into risky mortgage-backed securities which were used to create derivatives. These risky financial instruments and the large institutions that created and held them are what led to our financial crisis.

So our amendment is particularly timely because the FDIC has now said banks are going to have to prepay into the insurance fund for 3 years, and all that will be due this year, so a 3-year assessment will be due at the end of this year. It is so important to have a fair assessment ratio, and that is what the Tester-Hutchison amendment will do. It will have a ratio for what a bank owes into the deposit fund that is based on its risk, based on assets minus capital.

I am very pleased to be the sponsor of this amendment. I worked on this amendment in committee. I did the research on it to try to make sure we were doing the right thing. I am pleased Senator TESTER joined me in this effort, and we have a very bipartisan group of supporters of this amendment. It is my hope that we pass by an overwhelming vote this amendment which will put into the law that the FDIC deposit insurance will be based on a standard that levels the playing field for community banks so big banks don't have an advantage over community banks. It is our community banks that are giving the loans to businesses throughout our country. They are the ones that were there in the crisis as best they could to try to put liquidity into the market. They didn't cause the crisis and they certainly shouldn't pay the price for it.

I urge all my colleagues to support the Tester-Hutchison amendment.

Madam President, I was going to suggest we allocate the time being used against both sides. That would be my request.

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

The Senator from Connecticut.

Mr. DODD. Madam President, let me commend our two colleagues, Senator TESTER and Senator HUTCHISON, for this proposal. As I said several times yesterday, I think this is a very sound contribution to this bill for the very reasons outlined this morning by Senator HUTCHISON and Senator TESTER earlier—reducing the cost to our community banks at a time when obviously they are all feeling tremendous pressures under this economy. So I am a strong and ardent supporter of their proposal, and I am confident it will be overwhelmingly supported by our colleagues.

Let me quickly add we are going to be moving on after that vote to the Shelby, et al., amendment regarding consumer protection and complete replacement for the title. My colleague from Texas has written to me along with Jay Rockefeller regarding the Federal Trade Commission's interests, and we have worked that out, I believe, to the satisfaction of my colleagues on the Commerce Committee. But I draw to the attention of Members the amendment we will be voting on does great damage to the FDIC's rulings and abilities in this legislation. I urge people to take a good look at what we are going to be asked to support, as it deprives the FDIC of some of the very authority and rulemaking that I think we want to preserve in our legislation. So I will address the Shelby amendment after the Hutchison-Tester amendment is disposed of.

But let me say in response to the minority leader, one of the strongest features of what has happened to our country over the last several years is we have had seven different Federal agencies that have divisions on consumer protection. They have been around for a long time. The reality is, most of them were asleep at the switch and were treated as second-class operations within their prudential regulator to such a degree that even though we mandated legislatively to protect home mortgages and people, they never even promulgated a single regulation in this area. Small businesses watched credit card rates go through the ceiling. Many people who rely on that ability are watching their rates jump from 5 percent to 22 percent, which is not uncommon.

So the idea that this has been a division between bureaucracy in Washington and what happens on Main Street is a complete aberration. We have seen 7 million people lose their homes, many of them because they were lured into deals they never could afford at the fully indexed price. We saw the outrage expressed by consumers and we saw consumer credit cards again where rates exploded, making it difficult. There are all sorts of features.

This bill covers only financial products and financial services. That dentists and butchers and retailers on the street are going to be affected by this is a complete myth, totally so, and the provisions of the bill couldn't be more clear about it. There are no new regulations. We are taking existing consumer laws, things such as truth in lending, fair credit. Some legislation goes back 50 years to protect consumers and others from the kind of activities people have to worry about every day, in terms of making sure they are not going to be abused by people who would take advantage of them. The question is whether anybody is going to enforce any of this. So by setting up this agency in the Federal Reserve, we are giving them independent rulemaking authority, appointed by the President, confirmed by the Senate as an operation, and then working in consultation with prudential regulators so we don't end up with a conflict between the safety and soundness requirements of our financial institutions and the consumer protection issues.

In the absence of this, what we are confronted with every year is having to draft legislation to deal with one consumer problem after another, and we all know how long that can take, if it ever gets done at all. In the meantime, we see what happens to average citizens who have paid dearly.

As to the whole shadow economy, community banks are right to be annoyed. Here they are located on one street corner, and they have a payday lender on the other corner completely unregulated. Here they are as a community bank having to go through a regulatory process to make sure things are working right and yet the shadow economy operating maybe 100 yards away and no protections. Under this proposed amendment, we require assessments of community banks to pay for the regulation of the nonbanks. Here they go again. Another cost. Our bill does none of that. The cost of the consumer protection agency comes out of Fed money; no assessment, no appropriations to support it. This one requires an assessment. Here we are going to adopt an amendment, the Hutchison-Tester amendment, which reduces the cost to 98 percent of consumer banks, and the next amendment adds an assessment onto them. We have to be a little bit consistent about this.

So that is what the Shelby amendment does. There is an assessment in his bill on community banks, on the nonbank community. So while nonbanks will pay some, the other ones do. We don't do that in our bill. I think there are so many assessments out there already. That shouldn't be the case. We consolidate so you get clarity, not seven agencies telling you what consumer regulation you ought to follow or not. They deserve clarity in thought so there is a consistent line of what is occurring out there and that consultation and cooperation with prudential regulation so we don't have the conflicts.

We spent a lot of time going through this. This amendment, the provision of the bill, is one that was worked on, by the way, on a bipartisan basis as we were drafting it so we could have this feature of the bill.

Again, I am willing to listen to ideas on how we can strengthen this and make it more clear against some of the accusations that we are reaching into Main Street on this legislation. Nothing could be further from the truth. We are not reaching into it at all. Obviously, any proposal deserves to be looked at again and other ideas that can tweak it and make it look better. But the idea that we are going to level assessments—the FTC gets damaged, in my view, as it is presently written. I think people need to read carefully what they are going to be asked to vote on in the Shelby amendment and then walk away from it. It is worse than the status quo in many ways. It takes a huge step back. If there is anything we have learned in the last 2 years, it is those small businesses, those people out there who rely on the flow of credit, the access to capital, to see to it there is going to be someone watching out on a consistent basis to what happens to them, we believe we have a very strong provision in our legislation.

Senator TESTER is here to close on the amendment. I apologize for drifting off into this other area. I see my colleague and friend from Massachusetts. But I know Senator TESTER wishes to be heard on the Hutchison amendment. So I apologize to my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, the Senator from Montana, I believe, is gesturing that the Senator from Massachusetts could have up to 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Thank you, Madam President. Thank you to my colleague from Montana. I have enjoyed working with him very much over the last couple days and the Senator from Texas as well. I know we have been working very hard on this amendment. I wished to commend the Senator who just finished speaking as well—I have privately and publicly—for taking this effort and trying to work through it in a bipartisan manner because, as I have said many times, this is an issue that affects the American people in very serious ways. I don't want to rush in. I want to do it right so we don't have to come back next year or next month and try to fix problems we may have inadvertently created. So I appreciate the Senator from Connecticut allowing me to come and speak to him privately in his office and his staff and work through this and I am hoping we can continue with that bipartisan effort.

As a reflection of that, I have signed on to many amendments, some by my Democratic colleagues and some by my Republican colleagues, and I am thankful the majority leader has said publicly that we are going to get a full and fair discourse on these issues. The one I am referring to today is the Tester-Hutchison amendment, of which I am also a cosponsor, amendment No. 3749.

For more than 75 years, the presence of FDIC deposit insurance has meant that Americans who deposit savings in insured banks sleep soundly at night. That is kind of the basic small community bank. You know when you are giving your money to a bank it is not going to be treated as a casino; it is going to be protected. But as our banking sector has consolidated and large national banks have emerged, our smaller community banks have been getting squeezed. These small banks pay approximately 30 percent of the total of the FDIC assessments but hold only 20 percent of the Nation's banking assets.

I feel it is time for the larger institutions to pay their fair share. This amendment will improve competition in the marketplace and help small businesses. Everyone knows small businesses across the country are having a hard time getting loans. Lowering the assessments on these community banks, I believe and others who are sponsoring this amendment believe, will help increase loans to small businesses. On a relative basis, our small community banks are far more active in the market compared to larger banks. As someone who was, in a prior life before I got here, involved in representing some of those banks, I can tell my colleagues they are the ones that are continuing to keep the economic engine going in these small towns.

I am pleased the amendment we will vote on today also makes sure the institutional custodial banks and bankers' banks are protected from unfair assessment levels that are not in line with the true role in the financial system. This matters a great deal to my State of Massachusetts—the global hub of institutional asset management—and will allow us to restore fairness to the FDIC assessment system without imposing large, unjustified assessment increases on custodial banks.

So I urge my colleagues to support the amendment. Thank you, Madam President, and the Senators from Montana and Texas.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Madam President, first of all, I wish to thank the Senator from Massachusetts for his comments. I very much appreciate his cosponsorship and support of this amendment. I also wish to thank Senator HUTCHISON for her hard work on this amendment. I very much appreciate her ability to get things done in a fair way, and I thank her very much for that.

Senator HUTCHISON and I have come to the floor several times to talk about this bipartisan, commonsense amendment to hold banks accountable for their behavior and to preserve the integrity of the FDIC deposit insurance fund. It has been said before that this would direct the FDIC to base assessments on assets rather than deposits, forcing big banks to pay their fair share into the fund. This amendment will ensure that the community banks that make rural America run will pay only their fair share into the fund—no more and no less—fixing the lopsided system we have now. It would also protect the integrity of the deposit insurance fund, which is critically important, ensuring that it has the resources to be self-sufficient and prepared to address any future crises.

Let me say, Senator HUTCHISON and I think this amendment makes a great deal of common sense, as do the other 13 cosponsors of this legislation. I am pleased we are joined by so many of our colleagues on this important amendment and that it is one of the first amendments up for consideration. It is a question of equity. It is a question of making sure the FDIC insurance fund is solvent for years and decades to come.

I wish to thank all the people who have cosponsored it, and once again let me thank Senator HUTCHISON as well as the chairman of the Banking Committee, Senator DODD, for working with us on this amendment.

Madam President, is it appropriate to ask for the yeas and nays?

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

All time is yielded back. Under the previous order, the question is on agreeing to amendment No. 3749.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—98

Akaka	Enzi	Menendez
Alexander	Feingold	Merkley
Barrasso	Feinstein	Mikulski
Baucus	Franken	Murkowski
Bayh	Gillibrand	Murray
Begich	Graham	Nelson (NE)
Bennet	Grassley	Nelson (FL)
Bingaman	Gregg	Pryor
Bond	Hagan	Reed
Boxer	Harkin	Reid
Brown (MA)	Hatch	Risch
Brown (OH)	Hutchison	Roberts
Brownback	Inhofe	Rockefeller
Bunning	Inouye	Sanders
Burr	Isakson	Schumer
Burris	Johanns	Sessions
Cantwell	Johnson	Shaheen
Cardin	Kaufman	Shelby
Carper	Kerry	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Coburn	Kyl	Tester
Cochran	Landrieu	Thune
Collins	Lautenberg	Udall (CO)
Conrad	Leahy	Udall (NM)
Corker	LeMieux	Vitter
Cornyn	Levin	Voinovich
Crapo	Lieberman	Warner
DeMint	Lincoln	Webb
Dodd	Lugar	Whitehouse
Dorgan	McCain	Wicker
Durbin	McCaskill	Wyden
Ensign	McConnell	

NOT VOTING—2

Bennett	Byrd

The amendment (No. 3749) was agreed to.

Mr. DORGAN. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. JOHANNS. Madam President, I rise today to discuss the consumer protection piece of the financial reform bill we have been debating.

Let me start by expressing my appreciation for the good work of Chairman DODD and the good work of Ranking Member SHELBY and others who are making their way through a thoughtful process to try to get an overall bill that will work.

This piece of the bill, though, in my judgment, needs a tremendous amount of effort, attention, and work yet. The consumer protection piece has generated a lot of debate. We have all asked the question in Banking Committee hearings and on the floor: What is the best way to protect consumers? Let me underscore that. This has not been a debate about whether we do or not. No one is talking about ignoring this piece of the legislation. No one is advocating that we do nothing on consumer protections. What we are trying to focus on is the best way of doing it. We need to keep that perspective in mind as this debate unfolds and motives and words get distorted and stretched.

The bill before us establishes a consumer protection regime that is going to be housed at the Federal Reserve. But let me emphasize, that does not mean it is under its supervision. It functions like a stand-alone agency.

This new ''bureau'' will have what I would describe as unprecedented powers. It will reach into nearly every area of our economy with power over nearly everything. Anything that resembles the term ''financial in nature'' will come within the purview of this bureau.

I must admit, as this debate was going on, I found it surprising, if not shocking, that folks such as car dealers, accountants, and lawyers were showing up at my office to talk about the impact on them. It is no wonder that so many business groups have come out in opposition to this current piece of this legislation. I am not talking about banks. I am talking about business groups.

The Chamber of Commerce sent a letter outlining concerns on April 28 on behalf of—and I am using their language—''hundreds of thousands of nonfinancial services businesses.'' These hundreds of thousands of businesses—many of them small businesses—had absolutely nothing to do with the last crisis. Yet with this new bureau, I believe they will be punished or, at a minimum, tied up in redtape.

There are many pieces of this on which I could spend a lot of time talking on the floor, but what I have tried to do today is to encapsulate my thoughts into five areas, five concerns, if you will.

The first area is the unlimited rulemaking authority provided for in this legislation. Because the term ''abusive'' was added to the unfair and deceptive acts or standards, there is virtually no limit to the kinds of rules this new bureau can write.

We also know that the term ''abusive'' is entirely subjective. So how do you determine abusive? Will you make each customer take a financial literacy test? Is abusive different for MIKE JOHANNS than it is the next customer? Because ''abusive'' can be defined so differently from one customer to the next, we can see the unlimited problem that is created.

The second area, no veto power. I consistently said that it is a mistake to separate consumer protection from the issues of safety and soundness of the institution. If a proposed rule will have a negative effect on the safety and soundness of financial institutions, then we need some kind of checks and balances. Checks and balances are good. In this bill under debate, this new agency only has to list the regulator's concerns, not take them into any kind of meaningful consideration.

The third area, privacy rights. While there are a lot of privacy concerns here, two major ones come to mind.

Let me go to the language of the bill itself. Section 1022 mandates the bureau to:

> . . . gather information . . . regarding the organization, business conduct, markets, and activities of persons operating in consumer financial services markets.

A person is defined in the bill as an ''individual.'' So do you follow me? What this means is the bureau can look into the business conduct of the average person out there.

Section 1071 requires any deposit-taking financial institution to geocode customer addresses and maintain records of deposits for at least 3 years.

As Jim Harper from the Cato Institute described it:

> Think of the government having its own Google map of where you and your neighbors do your banking.

Is that what Americans want out of this bill?

The fourth item is the preemption standard. The current bill really changes current Federal law under the guise of giving States more power over their consumer protection laws. This worries me. This will wreak havoc for financial companies operating in more than one State. What we would be saying is they will have to comply with a patchwork of 51 State laws, and State AGs will have the power to enforce State and Federal laws against national banks. If this were the way since the beginning of time, one might say: Well, they have adapted to it. But to put them in this kind of regimen is literally to say to them: You are going to have to chew up mountains of capital to try to comply with all these various rules and regulations and laws of the various States.

The fifth item I wanted to mention is the expansive reach. This bill includes what I regard as an overly broad definition of ''consumer financial product or service'' and ''service provider.'' Specifically, section 1027 will subject numerous merchants to the regulation of this new bureau just because the business provides the ability to their customers to repay in four installments.

Imagine that you order a camcorder for the holidays off a home shopping network. This company provides you with the flexibility of making four installment payments. This new company could be swept under this new bureau. How long do you think companies will continue to provide that kind of flexible option to consumers if they are going to be buried in regulation? That is why the dentists, the lawyers, the advertising agencies, the accountants, and even florists are concerned with this bill and are showing up in our offices saying: What are you doing? I don't know about anyone else, but I can make the case without any hesitation that my local florist doesn't come to mind when I think about the players who brought our economy to the edge.

In response to this expansive and unfettered bureau, I am proud to announce my support for an alternative. This alternative, led by Senator SHELBY, is well thought out, is a reasonable approach and I believe a compromise to a very difficult issue in this legislation. It would establish a consumer protection division within the FDIC, which I believe is a natural fit since this agency is already tasked with protecting consumer deposit accounts. This new division would have authority to make rules relative to consumer protection. All rules, regulations, and orders would receive the approval of the board of the FDIC—an important check and balance. This is a very important distinction in terms of what we are debating today. Board approval will ensure that actions taken by the division appropriately consider safety and soundness of the financial institution, while ensuring that consumer safeguards are in place. While it allows primary supervision and enforcement to exist with the existing regulators, it does not bring in nonbank mortgage originators for supervision.

I will end on a final thought. Many have claimed that these mortgage insurers acted unfairly and that they preyed upon unsophisticated borrowers during the last crisis. This ensures the mortgage broker operating out of his garage or whatever is going to be regulated.

Finally, this new agency will be able to go after the bad actors, and that is what we should be doing. Anyone who shows a pattern of material violations will be brought under this new FDIC division.

Let me wrap up where I began. I applaud all my colleagues who have spent so much time and energy focusing on the consumer piece of this regulatory reform. Chairman DODD led us through hearing after hearing trying to figure out the best way to protect consumers. Senator SHELBY, our ranking member, worked on those issues in concert. We can get this right, but in my judgment, where we are today, the proposed legislation on the floor does not get it right. Let's focus on getting it right, getting the bad actors.

I believe the approach that is being championed by Ranking Member SHELBY is a reasoned one that elevates consumer protection while keeping safety and soundness as a paramount consideration. I ask my colleagues to support the alternative.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, first of all, if I may, let me acknowledge the contribution of the Presiding Officer, my colleague from New York. Everyone brings value to this Chamber from time to time based on what they have done in their earlier lives. I thank her immensely for bringing her background and experience to this critical debate we are having. She spent a lot of years working in this area of the law, knows it well, and I have come to appreciate her counsel and advice and thoughts on all of this, and I want to acknowledge that, if I may.

Madam President, as I said at the outset, there are four major pieces of this bill of ours, and I will add a fifth, obviously, dealing with the derivative section that was worked on by the Presiding Officer as a member of the Agriculture Committee, BLANCHE LINCOLN being the chairman of the Agriculture Committee. Title VII of this bill deals with that section. The Banking Committee side deals with the four other major parts of this bill, and they are, No. 1, end too big to fail; No. 2, set up an early warning system—and I am being simplistic in describing these—deal with the derivatives and the so-called exotic instruments; and have a strong consumer protection feature to this bill. Those are the four points.

We have resolved, I believe to virtually all of our satisfaction, the too-big-to-fail argument. We did that yesterday. And again, I thank my colleagues, particularly Senator SHELBY and others, for helping us work through that to come to a conclusion that ends the debate as to whether the bill before us ends too big to fail. I think that in itself would be justification for supporting the legislation—knowing that if we adopt this legislation, as I am hopeful we will, and Lord forbid we are confronted with another major economic crisis, we will not be faced with the choices we were in the fall of 2008 where the American taxpayer wrote out a check for $700 billion to bail out major financial institutions that were on the verge of collapse. We were told that if they did so, the financial system of our country, and possibly globally, would melt down, to use their words. What we wanted to avoid was ever being put in that position again, where you had the implicit guarantee that the Federal Government would write that kind of check. We have done that now in this bill, so let's check that box. Too big to fail is over with, and this bill takes care of that. We need to pass the bill, and we need the President to sign it so that it becomes law. But as of right now, we are far closer to resolving that issue than ever before.

The derivative section of the bill and so forth—I know people are working on this and working with Senator LINCOLN and others on that section of the bill. I respect immensely their efforts to make sure we can arrive at a compromise. We think we have good provisions in the bill, but I think all of us recognize other ideas and thoughts are always welcome. So that is being worked on.

The sort of radar, the look-ahead approach to our legislation, I don't think there is any debate about, so that box has sort of been checked. Maybe someone has some amendments on what they would like to do to strengthen it but not the idea that we have an early warning system so that we pick up these problems far earlier than we did or were willing to acknowledge as they were developing within the residential mortgage market as early as 2005 and 2006, beginning to explode in 2007, and then, of course, watching the events of 2008, culminating in the fall with the decisions we had to make in order to stabilize the financial system in our country. Had we had that early warning system—more than just one set of eyes at the Federal Reserve, which did, to put it mildly, a very inadequate job of picking up what was occurring in the real estate bubble—we would never have found ourselves in the situation we did in our country in the fall of 2008.

We believe the early warning system will be a major step in limiting the kinds of problems we have seen in the last couple of years. It does not stop the next economic problem. There will be another economic crisis. Future generations will deal with that. There is nothing in this bill that prohibits us or guarantees us that we have once and for all avoided economic crises. First of all, we are no longer in total control of that within our own country. How many more headlines do we have to read about Greece and what is occurring there—the riots in the streets today because of the economic decisions they are making to stabilize their country. These are already having an effect globally. So while we can do a lot to minimize what happens here, we recognize today that we live in a far more interconnected world that poses its own set of risks.

Nonetheless, I think the fact that we have established, on a bipartisan basis—and again, our colleagues MARK WARNER and BOB CORKER, along with other Members, did a great job, in my view, in crafting that part of our bill. So I think we have done a good job there, and I see very little dissent about it.

The fourth piece, the consumer protection, is the one in which we are now engaged. This is a debate that I believe is worth having over the next hour or two and then vote. Let me say to my friend from Alabama, the author of the amendment, and his cosponsors that we have to come and debate this stuff. I am here and will be glad to engage in the debate, but I have one other colleague here right now involved in this question. This is a major part of the bill.

People have told me over and over again that this is a big issue for them. I am willing to accept their determination. I think it is a big issue too. But we have about 100 amendments people want to offer, and we have about 39 legislative days between now and the end of this Congress, with an awful lot to do.

Now, I can't get there for you. I can't get your amendments up if others insist upon elongated times on the consideration of their amendments. We have all been debating consumer protection for years now, particularly over the last 18 months. There is no reason to have a protracted debate on this question. My Republican friends have offered a substitute to my bill on this issue, and I welcome that substitute. We need to now debate it and then vote on it and move on to the next issue.

Madam President, I am delighted to see my good friend, who just arrived to engage in this discussion. So let me address this issue of consumer protections in terms of both what we have in the bill, reading the language of it, and what the alternative would do.

Let me first of all say that I listened to my friend from Nebraska, Senator

JOHANNS, a wonderful member of our committee and a person I have come to respect very much. He has been very productive and very helpful in the Banking Committee.

But the idea, to use his language, that we are covering florists and accountants and lawyers and dentists—nothing could be further from the truth. I guess the old adage is, if you say something often enough and repeat it often enough and if it goes unchallenged, it becomes a fact. It is not a fact. In fact, it is anything but a fact. I know they wish to use that argument to try to pass their amendment or to defeat the sections of the bill I have included, but I cannot say it any more clearly to my colleagues. I believe it is section 1027 of the bill. You have all got copies of the bill on your desk. Read section 1027 when you come to the floor. It is not complicated legislative language. It says specifically the only reason you would be covered by the consumer protection language in this bill is if you are significantly involved in financial services or financial products.

I realize the word ''significantly'' is what people want to work on, and I am willing to listen to some ideas as to how we can define that word ''significantly.'' That is not a bad point. I understand that. But don't tell me it covers a florist under any definition of the words ''significantly involved in financial services and products.'' It excludes retailers and merchants across the country. Again, I am willing to debate all sorts of language here but don't make me debate completely false allegations about what is in the bill.

At any rate, we have been working on our bill for a long time. My compliments and thanks to my colleague from Alabama for the efforts yesterday and so forth. But this is a very important part of the bill. We have worked to create an early warning system, as I mentioned, and of course too big to fail, but consumer protection is critical because it goes to the very heart of what we are trying to do. In fact, it was consumers, small businesses, families, individuals, farms that were adversely affected. Wall Street did fine, as we have seen. Some people lost some jobs along the way. A couple of these large institutions did collapse. But we have heard about the bonuses that went to top executives. The buildings are still there. They have been making record profits over the last couple of years. But what happened to those millions of people who had a home that now is gone? What happened to those 8.5 million jobs? Gone. What happened to those retirees in our country who watched 20 percent of their retirement evaporate? What happened to those people who still have a house but the value of that home has declined by 30 percent in the last year and a half? I don't know what you call them; I call them consumers, the average person in our country who did not do anything except try to hold body and soul together, got lured into a bad deal by people who were unregulated and were willing to convince them they could buy a home they never could afford, knowing that the fully indexed adjustable rate mortgage was going to wipe them out.

I talked about Dolores King, who was the first witness I brought to our committee 3 years ago, in January or February of 2007. She was a retiree in Chicago who worked as a librarian for 30 or 40 years. Her husband had died. She had about a $30,000 or $40,000 credit card debt and some unscrupulous broker came in and convinced her she needed to rewrite her mortgage and an adjustable rate mortgage would work for her. She lost everything. She lost her home—70 percent of her fixed retirement income went to pay that mortgage.

So when people tell me you cannot get consumer protection, when that automobile company a few weeks ago had to recall its cars because the accelerator got stuck, they got recalled. Did Dolores King get her mortgage recalled because it was faulty, when she lost her home? That is what consumer protection does. If you are in the business of financial services and products, having someone watch out for the average citizen ought not be such a radical idea when we talk about financial reform.

We have this in a way, on a bipartisan basis, I might add, that sets up an independent consumer protection agency housed at the Federal Reserve. Its director is appointed by the President and confirmed by the Senate. It has the authority to write rules on consumer protection in the financial services area where financial products are involved.

Then of course it has examination and enforcement authority—only for those institutions that have assets more than $10 billion—for enforcement; otherwise, it is done at the local level. The rules are the same. We don't write any more rules. The rules are there. They have been around in some cases for 50 years—truth in lending, fair credit, RESPA—all of these laws in place. All we are saying, can someone enforce them and examine institutions and determine whether they are living up to them?

Right now there are seven agencies that have a consumer protection division. For a huge part of our economy, no one is watching them. One of the very legitimate complaints our community banks make: We get regulated but that guy down the street, that payday lender, no one is watching out what he is doing every day, and we are disadvantaged. Our bill stops that. If you are a payday lender, you are under the same rules that banks would be under—at least have someone watching out there. That is a major step forward. We recognize a major part of our economy's collapse or near collapse was in the shadow area of our economy. Our legislation fills those gaps.

We understand, or should understand, how important having an independent agency with rulemaking authority is. Again, the issue is—wait a minute, you have to be careful, Senator, because you have safety and soundness and the prudential regulators have to be considered in all this. That is a legitimate point. I don't disagree with that, although I think sometimes the accusation that there is this great conflict is exaggerated. Our bill says the prudential regulators have to examine and look at the rules coming out. If they vote, two-thirds of them, and say that rule creates a conflict or some problem, it does not go into effect. There is not another agency in government that can have its own regulations or rules vetoed by another group of regulators. That was a suggestion, again, by Republican colleagues to include in our bill, to provide the kind of safeguards against potential conflicts of interest between safety and soundness and consumer protection.

Again, that today with seven agencies tasked with consumer protection, not one of which did the job to anyone's satisfaction in the lead-up to this crisis, ought to be justification alone for what we are trying to do. Our legislation will have an independent director appointed by the President and confirmed by this body, as I said. They will have a dedicated independent budget paid for by the Federal Reserve Board.

The proposal we are being asked to vote on adds additional assessments to banks and to nonbanks. We just got through adopting the Tester-Hutchison amendment regarding assessments, to reduce the assessments on community banks. If you adopt the Shelby amendment, you are going to add assessments on again. Here we vote on one hand to take them away, and now with an amendment—this asks to put them back on and is asking our community banks for additional assessments to cover the activities of nonbanks. I thought I heard my colleagues say around here we ought to be more sensitive to what is happening at the community bank level. Yet this amendment my colleagues are going to be asked to vote for does the opposite. So be very careful when you get up and vote for this amendment to explain why, later, if in fact it gets adopted, this bill does, why we are adding assessments to those banks.

Our bill will have an office of financial literacy to ensure consumers are able to understand the products and services being offered, which was a major problem in the last crisis, and a national toll-free consumer complaint hotline so Americans have somewhere to go when they need to report a problem.

Our bill will make us empowered to write consumer protection rules governing any institution, bank, or payday lender that offers consumer financial services or products, and only those businesses that do that. In short, we are ending the alphabet soup of distracted and ineffective regulators and replacing it with one single, empowered, focused cop on the consumer protection beat.

Again, a complaint, I think legitimately, is when you have seven agencies with consumer protection jurisdiction—I think the lack of clarity is important. My colleagues should understand that. My colleague from Alabama has come out with a Republican substitute for the consumer protection bureau. I am surprised. I know my friends were not going to agree with the consumer protection provisions as strongly as some of the ones in my bill, and in some of my more pessimistic moments I thought they might want to maintain the status quo, but this is worse than the status quo. This is a major step back. This substitute actually goes backward, making it easier for unscrupulous lenders to rip off the American public, businesses, and families. It is a stimulus package for scam artists, that is what it is, this amendment; nothing short of that. For the life of me, I cannot understand, after months of hearings, months of analysis, months of discussion regarding the fact this financial crisis started with a failure of consumer protection, anyone would think that the right solution is less consumer protection. Yet that is exactly what this amendment does.

It is as though we are in a deep hole and we spent a full year debating how to get out and our Republican friends' solution is: Keep digging.

I am going to walk through the provisions of their substitute but, in short, here is why it is simply unacceptable.

First, when it comes to writing new consumer protection rules, the Wall Street substitute—and that is what it is—relies on the same regulators who screwed up the country in the first place. Why would you ask them to do it again?

Second, when it comes to enforcing rules, their plan actually makes things worse, reducing regulators' ability to stop rip-offs and leaving American families even more vulnerable.

Third, the Republicans' substitute wants to raise taxes on community banks and credit unions to pay for the regulation that will not even happen.

Fourth, they want to make it easier to sell Americans mortgages they cannot afford which, if you have been paying any attention at all to what has been going on in the last 18 months, is the very reason we got into this mess in the first place, making it easier to sell Americans mortgages they cannot afford.

Fifth, to top it all off, this substitute eliminates the provision of any consumer protection proposal that targets discrimination in lending. How on Earth could anyone be against ending discrimination in lending? Yet that is also a part of this substitute.

If you look at how we got into the crisis and you conclude that the answer is to weaken consumer protection, you are doing it all wrong. Let me go into a bit more detail, and then I see my colleagues want to be heard as well.

The first important change in the Republican substitute is, instead of having an independent agency write consumer protection rules, it puts the task in the hands of the same distracted and ineffective regulators who failed so badly in the first place.

What would that mean for the consumers? Here is a preview. One of those regulators has already demonstrated itself to be anticonsumer, opposing proposed rules to keep credit card companies from retroactively raising interest rates on outstanding balances.

I can speak firsthand. I am the guy who wrote the credit card bill. The agency that fought me on it now is going to be tasked with the job of protecting people from it. For the life of me, of all the agencies you could have picked to run this in your bill, you picked the one agency that has fought us on credit card reform. It is stunning to me that someone would actually write a substitute tasking this agency, knowing this was the agency that did so much damage, was opposed to the idea that we put limits on interest rates to be charged on outstanding balances. That is not putting consumer protection at the heart of our financial system, that is putting consumer protection in the backseat, where it has been for far too long.

That is not the worst of it. The Republican substitute limits enforcement powers to ''large nonbank mortgage originators.'' Large nonbank mortgage originators—other finance companies will avoid enforcement unless they demonstrate a ''pattern or practice'' of consumer abuses. In other words, their version of the consumer protection agency will not be allowed to prevent abuses committed by commercial—or banks, or payday lenders, check cashers, credit card companies, debt collectors, car dealers who are involved in the finance business, and a wide range of the worst actors in the subprime mortgage industry, until it is already too late for potentially thousands of consumers to be protected. It is as though they want to create a police department that is allowed to enforce laws against littering. Maybe they will cut down on littering, but to leave the same regulators to deal with the rest of the financial sector, they are essentially turning a blind eye to every other kind of crime out there. In fact, it is like legalizing those crimes by eliminating the Federal Trade Commission authority to police unfair and deceptive financial practices in these other sectors. The substitute is worse than the status quo, and the status quo is very bad indeed.

Meanwhile, the substitute raises taxes on potentially any nonbank financial services company. It allows the Federal Deposit Insurance Corporation to raise assessments on banks, including community banks and credit unions. In fact, their plan would ask credit unions to pay for the regulation of their nonbank competitors—the same competitors who will be getting a free ride, exempted from any Federal oversight whatsoever.

Our plan is to have the Federal Reserve pay for enforcement. Their plan is to have community banks pay for enforcement, and then do not have the enforcement, of course. That is a tax increase they don't need and one that our depository institutions, so critical to rebuilding our economy, cannot afford.

The amendment also prohibits the establishment of strong mortgage underwriting standards. We all know how important it is to establish better underwriting standards. If we had rules in place 2 years ago that required banks and mortgage lenders to make loans only to people who could show that they have the ability to repay them, we would not be in this mess—if that had been the case.

The amendment before us would prohibit the new division we have proposed to create from issuing commonsense rules like these. If you had to pick one thing in this bill to undermine and ensure that we have another financial crisis, in my view, this would be it.

The substitute also eliminates as an objective of the new consumer division the goal of eliminating discrimination. I believe this goal is essential to restoring America's faith in our markets.

In short, I find it impossible to work with this proposal. There are ideas I am willing to listen to, that we might define ''significantly'' and things like that. That is fine. I understand that. But this approach does more damage than you can imagine.

Again, to go back to what I said at the outset, we have spent a lot of time talking about what happened to the big firms on Wall Street and what happened to large institutions and large manufacturers. The root cause of the problem we are in began because there was a total disregard for small businesses and families and individuals out there; that they could take advantage of them, as they did, because they could sell off—they could get paid immediately, they securitized these crummy mortgages out there, leaving that home owner in a situation they could never afford to sustain, and the house of cards came tumbling down. And it all began—it all began—with that problem.

I say, respectfully, this proposal goes right at the heart of the very issue we must address in this bill, in addition to all of the other aspects we are talking about. There is no more very important vote we will cast, in my view, in this debate than this one. If we walk away from providing the safeguards for the average American—I do not care what their politics are, what their ideology is, anything else, they deserve to know in this debate, at long last, they are being considered, that watching out for them is part of this.

The outrageous case that this somehow reaches into retailers and merchants is highly offensive to me. It is the last thing I would ever suggest to my colleagues, that we somehow get into the business as Federal regulators of poring over florists and dentists and butchers and accountants and lawyers. Nothing could be further from the truth.

This goes after those businesses involved in financial services and products. It does so in a way that provides clarity, provides an opportunity for those institutions to be regulated, to know what rules they have to follow, and who is in charge of insisting that they meet those obligations.

So with that, I urge my colleagues to vote against this amendment. My hope is we will vote fairly soon. Again, we have hundreds of amendments that people want to be heard on, and we do not have all of the time in the world to deal with it. So we have to move on on these issues.

I think people understand the debate. They can read the amendment. I urge you to read 1027 in our bill, the section dealing with consumer protection, dealing with who is covered. Then we will have a vote.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DODD. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 789, the nomination of Larry Robinson to be Assistant Secretary of Commerce for Oceans and Atmosphere; that the nomination be confirmed and the motion to reconsider be considered made and laid upon the table; that any statements be printed in the RECORD; the President be immediately notified of the Senate's action, and the Senate resume legislative session.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF COMMERCE

Larry Robinson, of Florida, to be Assistant Secretary of Commerce for Oceans and Atmosphere.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—Continued

The PRESIDING OFFICER. The Senator form North Dakota is recognized.

Mr. DORGAN. Madam President, I will join my colleague from Connecticut in opposing the amendment on the floor if it weakens the underlying bill, but I do not come to speak about that proposal at the moment. I wanted to speak about an amendment I have discussed previously on the issue of too big to fail.

There is much yet to do on this subject of too big to fail. I recall, in a room just steps from here, on a Friday, I believe it was, the Treasury Secretary leaning over the lectern in a very stern way saying to the caucus that I was involved in, if within 3 days a three-page bill granting $700 billion to the Secretary of the Treasury, with which to provide funds to stabilize some of the biggest financial institutions in the country, if that did not come about, our economy could very well collapse completely.

I remember that moment and remember thinking that it was pretty bizarre that our country got to that point: that all of a sudden 1 day, after being told month after month that the economy was strong, the economy was in good shape, that there were some ripples and hiccups here and there, but things were on course and we had confidence in the strength of the economy, that we were now being told the economy may well collapse in days unless the Congress comes up with $700 billion.

Why was that the case? Because institutions that were so large in this country, at the top of the financial industry, were so important to the economy that their failure could very well result in failure of the entire American economy. That is what is called too big to fail.

Let me show a chart that shows the six largest financial institutions in the country and what has happened to them since 1995. This is their growth as a percentage of GDP. It shows that they are getting larger and larger and larger and much larger. Even during this period of near collapse, the same institutions that were judged too large to fail and judged to represent a grave risk to the entire economy have gotten larger than just too big to fail.

We had a vote yesterday, but that cannot be the end of this discussion about how to address too big to fail. The vote yesterday was rather Byzantine, as far as I was concerned. I was not someone who was a big fan of the $50 billion to be pre-funded for resolution of too-big-to-fail companies. But having said that, to decide that the $50 billion, which would come from the very institutions that are too big to fail, should be abolished, and that the funds instead would come from the FDIC, which are initially funds from the American taxpayer, made no sense to me. Then suggesting that it will be all right because the FDIC will be repaid with the sale of assets—oh, really? Well, firms that are too big to fail that are going to get in trouble in the future are not going to have very many assets. They are going to be in trouble because of dramatic amounts of overleverage, leverage that goes far beyond their ability to continue to do business. And when the firm comes tumbling down, I fail to see where assets are going to exist in substantial quantity to repay the taxpayer.

But that was yesterday. I did not support that. That was yesterday. This issue of creating a circumstance of early warning on too-big-to-fail firms is not satisfactory to me. The only way to resolve too big to fail is to abolish too big to fail. I mean abolish too big to fail. That means having firms that are not too big to fail, that will not cause a moral hazard or a grave risk to the entire economy should they fail.

Do you believe that is the case with this graph? Is there anything here that—as this graph shows, we have firms that are too big, far too big to fail. Is there anything here that is going to solve that in this bill? The answer is no. The only direct and effective way to address this is to decide, if you are, in fact, too big to fail, then there has to be some sort of divestiture or dissolution to bring that firm back down to a point where in size and scope such firm is not too big to fail and is not causing the kind of dramatic special risk to the country's economy that it would bring the economy down with it.

That is the only direct and effective solution. Is that radical? Well, I have an amendment that requires that if you are determined to be too big to fail, then we begin a process, over 2 years, of breaking away those parts that make you too big to fail. Is it a radical idea? I do not think so.

One-fourth of the Board of Governors of the Federal Reserve Board says we ought to do that. Richard Fisher, president of the Dallas Fed: Too big to fail is not a policy, it is a problem. Too big to fail means too big period. We ought to break them up.

Federal Reserve Bank of St. Louis, James Bullard, president and chief executive officer: I do kind of agree that too big to fail is too big to exist.

The economist, Joe Stiglitz, Nobel Prize winner: Too-big-to-fail banks have perverse incentives. If they gamble and win, they walk off with the proceeds. If they fail, taxpayers, pick up the tab.

Alan Greenspan—I seldom, if ever, agree with Alan Greenspan, but I have used a quote of his to describe where we are now. He was around sitting on his hands for a good many years while these problems developed, despite the fact that he had the authority to have avoided them. Then he has written a book acting as if he was exploring the surface of Mars while all of this went on.

But now he says: The notion that risks can be identified in a sufficiently timely manner to enable the liquidation of a large failing bank with minimum loss has proved untenable during this crisis, and I suspect in the future crises as well.

Simon Johnson, professor of entrepreneurship, the Sloan School: There is simply no evidence, and I mean no evidence, that society gains from banks having a balance sheet larger than $100 billion.

I do not know whether I agree or disagree with that. But his point is that too big to fail means too big.

Arnold King, Cato—I seldom quote Cato on the floor of the Senate. But, you know, strange bed fellows: Big banks are bad for free markets. There is a free market case for breaking up large financial institutions—that our big banks are a product not of economics but of politics.

The president of the Federal Reserve Bank of Kansas City, this is the third Fed president: I think they should be broken up. And in doing so, I think you will make the financial system itself more stable, more competitive, and I think you will have long-run benefits over our current system.

We broke up Standard Oil in this country into 23 different pieces. It turned out the 23 pieces were more valuable than Standard Oil was. I am not saying just go in and break up things just for the purpose of breaking up. I am saying this: If there is a standard by which we judge that an institution is too big to fail and causes a dramatic risk to the economy as a whole should it fail, a moral hazard, unacceptable risk to the entire economy, then it seems to me like this issue of creating early warnings and stop signs and sirens and so on is largely irrelevant.

What we need to do is do something direct and effective and something we all knew we should do; that is to say, if you are too big to fail, and judged to be so, and judged to pose those kinds of risks to our economy, then you must break off pieces. We would, over a 2-year period, require that to happen until you are not too big to fail.

Let me show a couple of quick charts. This one shows the top financial institutions: The Big Get Bigger. This chart shows the same thing, measuring assets and liabilities: The Big Get Bigger. Much, much bigger. The first chart I showed today demonstrates why, if we do not pass the amendment I suggest, we can thumb our suspenders and crow all we want in every hallway in this Capitol Building, but we will have not done what was necessary to be done to address too big to fail. We just will not do it.

So I have an amendment. I am here because I am pestering those who are lining up amendments to make certain I have a chance to debate and vote on that amendment, and that will be the test of whether this Congress has learned a lesson; whether, when someday a Treasury Secretary leans over a lectern and says: If I do not get $700 billion to bail out the big interests that ran this country into the ditch, our whole economy is going into the ditch.

So I hope very much that we will have the opportunity to both simply and effectively do what is necessary to finally and thoughtfully address this issue of too big to fail.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BENNET. Thank you, Madam President.

I see our chairman and the ranking member over here from the Banking Committee on which I serve, and I want to congratulate them for their hard work in getting this legislation to the floor. We are finally doing some work around here, and we are doing it in a bipartisan way.

I think this bill is going to improve over the course of this debate. It is an enormously important opportunity to safeguard our economy from the reckless danger that got us into this financial mess. I am hopeful we can wade through all this Washington wrangling and get something done to protect America's financial future.

There is a shared understanding of what got us here, and that is the good news. Some on Wall Street took all the risk. Yet it is the American people who paid the price. Small businesses, homeowners, and working families were forced to come in and clean up this mess.

It is our responsibility to learn the lessons from the last collapse to help this economy recover and to head off the kinds of problems that could lead to another financial crisis. In short, we have to fix this economy, ensuring there will never have to be another taxpayer-sponsored bailout.

As someone who sits on both the Agriculture and Banking Committees which share jurisdiction over this bill, I can assure you that this package reflects months of hard work and incorporates ideas and concepts from both political parties. We have examined the problems that brought us to the financial brink nearly 2 years ago, and together these two committee bills created a thoughtful and comprehensive plan to increase transparency, reduce systemic risk, and strengthen our commitment to protecting consumers.

In reviewing the merits of the bill, I think it is important to analyze how it would have addressed so many of the problems that led to the financial collapse in 2008. Too often, we do not ask the question, What problem is it we are trying to solve, and then we get busy either solving problems that did not exist or creating unintended consequences from our work. I think we have worked hard on this legislation for this not to be so.

Had this legislation been the law of the land, we would not be talking about that $700 billion taxpayer-funded rescue of our Nation's largest bank holding companies. We would have been able to see many of the dangerous trends develop earlier, and we would have required these systemically risky companies to have more capital and less debt. Had any of these companies failed, we would have resolved them without transforming them into wards of the state, like AIG.

Second, had a strong consumer protection infrastructure existed, we could have stopped the subprime mess before it spiraled out of control. For example, subprime giant Ameriquest would have been subject to meaningful rulemaking and enforcement authority. And while I prefer a wholly independent agency, this bill represents substantial and meaningful progress on a consumer protection front.

Third, had the bill's derivatives reforms been in place, it is much less likely—much less likely—that the Federal Government would have been forced to spend tens of billions of taxpayer dollars to rescue AIG from its own sloppiness and greed.

In total, the plan before us represents a strong and thoughtful measure that rewrites the rules of the road for Wall Street. And through the amendment process, we can make it even better.

For example, I think we need to ensure that certain State-chartered community banks that did little to contribute to the current crisis do not have to change their prudential regulator. In so many of our towns, community banks play an important role in providing credit to our local economies. Many of these small institutions are struggling due to this difficult economy, which means less available credit for families and small businesses. I have concerns that a change in prudential regulation may exert further pressure on these small banks which continue to serve their local communities. It is my hope we can balance the need to reduce regulatory arbitrage while preserving the existing prudential supervisory structure for some of these State-chartered banks.

I also believe it is time for us to take advantage of this opportunity to begin to move away from the last bank bailout, the TARP. While there are 100 opinions in this Chamber about how effective TARP was, there really is a broad consensus here and in the country that it is time to wind down TARP, recapture what we can for taxpayers, and prevent banks from tapping into the Treasury going forward. That is why in the coming days I will be pushing bipartisan legislation that will do exactly that. It would use recaptured TARP funds, borrowed from our children—$180 billion so far and counting—for deficit reduction, and it would take important steps to end the TARP.

More broadly, I also think we need to be aggressive about strengthening this bill to further protect consumers. I will be supporting amendments which do exactly that.

When it comes to Wall Street reform, we simply cannot afford to delay any longer. Recently, the TARP inspector general underscored this point better than I could. He stated:

> [E]ven if TARP saved our financial system from driving off a cliff back in 2008, absent meaningful reform, we are still driving on the same winding mountain road, but this time in a faster car.

In short, bailing out companies has made the future risk to our financial system even worse, by creating the moral hazard that a financial firm that participates in risky behavior is going to somehow be bailed out by the government, by the taxpayer. This Wall Street reform package takes a strong step toward restoring some degree of sanity in our financial system and making that moral hazard a thing of the past.

Finally, Coloradans and the American people are expecting us to act. I am confident we are going to succeed. Lobbyists may have been able to slow down Wall Street reform temporarily, but the American people want it, as well they should. We are getting closer and closer every day to sustaining a workable bill that can pass this Chamber and that we can eventually send to the President for his signature. We cannot allow the status quo to maintain its grip on our financial system. We have to work together and pass this groundbreaking reform package.

I want to close, again, by thanking the chairman of the Banking Committee, who is here in the Chamber, for his leadership throughout the months, not just on this issue but on health care as well but particularly for sticking with this issue. I do not think we would be having this debate right now were it not for the work the chairman did. As a member of the Banking Committee, I appreciate it very much.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, before turning to my colleague from New York, let me say how fortunate I have been as chairman of the committee to have Senator BENNET as a member of our committee. I want to thank him immensely. He is a new member of the committee, but, again—like the Presiding Officer, like my other colleague from New York—I cannot tell you how valuable it has been having people who understand this issue and who bring to this Chamber a previous life rich with the experience of understanding these issues. So let me thank the people of Colorado for having the Senator here. What a difference the Senator has made in the consideration of this legislation.

Some of the newest members of the committee—and I think my colleague, the senior Senator from New York, would acknowledge this—some of the newest members of our committee made some of the most valuable contributions to this product, which is further evidence that you do not have to be here that long. In fact, sometimes maybe the shorter time you are here, you bring that kind of fresh experience from our States and across the country.

So I did not want the moment to pass without expressing to MICHAEL BENNET of Colorado my deep, deep appreciation. I say to the Senator, I thank you for your leadership, your thoughtfulness, and the contributions you have made not only to this product but to others during your tenure.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. First, Madam President, I wish to join my friend from Connecticut in praising Senator BENNET, who has had an amazing effect and a steady hand in bringing this bill to the floor. I also thank my colleague from Virginia, Senator WARNER. The new Members have had a tremendous effect on this bill. This reflects the way the Senate works these days, and I think it is all for the better. Having their input and experience has been vital.

But, Mr. Chairman, I would also say that you are full of fresh ideas and vim and vigor. Just because you have been around here a long time does not mean that——

Mr. DODD. Thank you.

Mr. SCHUMER. In fact, you have had the wisdom to encourage some of our new Members to actively participate, and confidence to do that as well.

I also do not want to fail to note my colleague from New York, Senator GILLIBRAND, the Presiding Officer, who has done a fabulous job, too, particularly on the agriculture portion of the bill on the committee on which she sits.

AMENDMENT NO. 3826

Madam President, I come to the floor today and rise against the consumer amendment posed by Senator SHELBY that is before us. I come to the floor to speak about the need for a strong independent consumer watchdog. I am here to talk about the proposal put forward by some of my Republican colleagues to place a new consumer protection division within the FDIC and significantly reduce the ability of that division to carry out its mission.

The amendment before us greatly weakens the bill in terms of consumer protections. In fact, it is not just a step backward from the bill before us, it is a step backward from the status quo. If we were to pass the amendment on the floor, consumer protections, weak as they are today, would be even weaker. This amendment would leave the consumer naked and unprotected. This amendment strips the bill of some of its strongest protections. Not every financial institution preys on consumers, but those that do would be given too free a hand if this amendment were to pass. I urge strong opposition to it.

Let me explain. One of the roots of this financial crisis was, undoubtedly, that total failure of our consumer protection regime. Americans were sold products they did not understand and could not afford by mortgage originators eager for a fee and happy to sell those loans off into the great securitization machine which was given a virtual carte blanche by the credit rating agencies.

After the events of the last several years, no one can argue that fundamental reform of our consumer protection regime is not necessary. No one can argue the status quo is the way to go. The status quo simply will not do. There is no accountability in the current system. Consumer protection is split among seven different regulatory agencies. For that reason, I was an early supporter of efforts to create a truly independent consumer protection agency, and I am still working with many of my colleagues, including Senator JACK REED and Senator DURBIN, to strengthen the provisions of the bill proposed by Chairman DODD.

One of the key authorities of any new consumer protection division or agency is that it must be able to adopt rules to protect consumers without being overruled by banking regulators who would rather allow banks to pad their bottom lines by fleecing consumers with hidden fees.

Some argue that you cannot split consumer protection from safety and soundness. But historically, in the present setup, every time there is a conflict, the consumer loses. Consumers deserve an accountable regulator with oversight of consumer financial products as its primary objective, not as an afterthought.

The Republican proposal being discussed is totally inadequate. It would allow the same bank regulators, who have stood in the way of meaningful consumer protections for years, to veto consumer protection rules proposed by the head of the new division.

For example, the Comptroller of the Currency, who publicly opposed the Fed's new credit card rules, would, under the Shelby amendment, get to vote on future credit card rules. So the regulators who do not really care—some of them—about consumer protection would be given veto power.

The division would have no examination or enforcement power over any bank of any size or any of its affiliates. Some of the worst actors in the subprime mess were bank affiliates or subsidiaries. Even worse, it could only do examinations of nonbank consumer finance companies if they "demonstrate a pattern or practice of violations" of consumer law—in other words, only after consumers have been harmed repeatedly. That is what one could call too little, too late. Even the Fed recently deleted this requirement from rules governing subprime mortgages because it hampered enforceability of those rules so severely.

Even the banks want the new consumer division to be able to enforce its rules at nonbanks. This is amazing. Some of the most rapacious institutions that prey on consumers are not banks. They operate outside the scope of the Federal regulatory authorities. They are often responsible for many of the most egregious abuses and predatory lending practices. Many of the products provided to consumers by these nonbanks played a direct role in the financial crisis. And many of these businesses—payday lenders, rent-to-own companies—currently operate below the radar screen to prey on vulnerable communities. How can we exempt some of these payday lenders and rent-to-own companies? I have seen them prey on poor people in my State. How can we exempt them from regulation when they often are worse than many of the financial institutions?

The Republican amendment would also prohibit the consumer division from issuing any rules ''that affect any underwriting standards'' of deposit institutions and their affiliates. After the crisis we just went through, which was in large part created by bad mortgage underwriting standards, I cannot believe anyone can propose this with a straight face because—let me repeat what it does. The consumer division cannot issue rules ''that affect any underwriting standards'' of deposit institutions. It is saying: Let's repeat the mortgage crisis. It makes no sense.

If this consumer division were in place in 2008—the one proposed by my colleagues here—it would not have had the power to write the mortgage rules establishing the minimum ability to pay standards the Fed issued. As we know, the Fed was not an extreme watchdog in any sense. I have worked long and hard in the area of consumer protection. I have worked with these regulators. I have seen how slowly they work. It took more than 10 years to get them to go along with the so-called Schumer box, where credit card interest rates were made clear and visible to prospective credit card purchasers. It worked. But why did it take so long? Then, when the banks came with new ways of getting around the rules, again, it took me forever to get the Fed to move because the Fed, frankly—and Chairman Bernanke to his credit admitted this—did not make consumer protection a high enough priority.

So we need, in my judgment, an independent agency. That would be the best solution. Second best would be an agency, even if it is within the Fed, that is largely independent in both the rules it can promulgate and its enforcement. We need strong, forward-looking financial reform. I have always said I want the reform to be constructive, not punitive. But if we go through all this and fail to leave consumers better protected than they were before this crisis, we will have totally failed in our mission to serve the American people.

I strongly urge that this amendment be rejected by a large and hopefully bipartisan majority.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I am glad the Senate is finally considering the critically important issue of financial regulatory reform. Few things are as important as ensuring we never again suffer the kind of meltdown of the financial markets that shoved our economy into the worst recession since the Great Depression. I think it still remains to be seen if this bill will do that. While it certainly includes some good reforms, more needs to be done, and the track record of Congress in this area is, at best, checkered.

For the last 30 years, Presidents and Congresses have consistently given into Wall Street lobbyists and weakened essential safeguards. As has been the case in so many areas, members of both political parties are to blame. Legislation that paved the way for the creation of massive Wall Street entities and removed essential protections for our economy passed with overwhelming bipartisan support. From the savings and loan crisis in the late 1980s to the more recent financial crisis that triggered the horrible economic downturn from which we are still recovering, those three decades of bipartisan blunders have been devastating to our Nation. The price of those blunders has been paid by homeowners, Main Street businesses, retirees, and millions of families facing an uncertain economic future.

The impact of the recent financial crisis on the Nation's economy has been enormous. Millions have lost their jobs and millions more who are lucky enough to have a job are forced to work fewer hours than they want and need to work. According to a study done by the Pew Trust, the financial crisis caused American households an average of nearly $5,800 in lost income. Of course, families lost a significant amount of their personal savings. As a nation, we lost $7.4 trillion in stock wealth between July 2008 and March 2009 and another $3.4 trillion in real estate wealth during that same time. We simply cannot afford to continue down the path policymakers have set over the past 30 years.

The test for this legislation then is a simple one: Whether it will prevent another financial crisis. Central to that test will be how this bill will address too big to fail. This is a critical issue that has been growing for some time now as increased economic concentration in the financial services sector has put more and more financial assets under the control of fewer and fewer decisionmakers.

Years ago, a former Senator from Wisconsin, William Proxmire, noted that as banking assets become more concentrated, the banking system itself becomes less stable, as there is greater potential for systemwide failures. Sadly, Senator Proxmire was absolutely right, as recent events have proved. Even beyond the issue of systemic stability, the trend toward further concentration of economic power and economic decisionmaking, especially in the financial sector, simply is not healthy for the Nation's economy.

Banks have a very special role in our free market system: They are rationers of capital. When fewer and fewer banks are making more and more of the critical decisions about where capital is allocated, then there is an increased risk that many worthy enterprises will not receive the capital needed to grow and flourish. For years, a strength of the American banking system was the strong community and local nature of that system. Locally made decisions made by locally owned financial institutions—institutions whose economic prospects are tied to the financial health of the community they serve—have long played a critical role in the economic development of our Nation and especially for our smaller communities and rural areas.

But we have moved away from that system. Directly as a result of policy changes made by Congress and regulators, banking assets are controlled by fewer and fewer institutions, and the diminishment of that locally owned and controlled capital has not benefited either businesses or consumers. Of course, most dramatically, taxpayers across the country must now realize that Senator Proxmire's warning about the concentration of banking assets proved to be all too prescient when President Bush and Congress decided to bail out those mammoth financial institutions rather than allowing them to fail. That was a bailout I strongly opposed.

The trend toward increased concentration of capital was greatly accelerated in 1994 by the enactment of the Riegle-Neal Interstate Banking and Branching Act and especially in 1999 by the enactment of the Gramm-Leach-Bliley Act, which tore down the protective firewalls between commercial banking and Wall Street investment firms.

Those firewalls had been established in the wake of the country's last great financial crisis 80 years ago by the Banking Act of 1933, the famous reform measure also known as the Glass-Steagall Act.

Prior to Glass-Steagall, devastating financial panics had been a regular feature of our economy, but that changed with the enactment of that momentous legislation, which stabilized our banking system by implementing two key reforms. First, it established an insurance system for deposits, reassuring bank customers that their deposits were safe and, thus, forestalling bank runs. Second, it erected a firewall between securities underwriting and commercial banking so financial firms had to choose which business to be in. That firewall was a crucial part of establishing another protection—deposit insurance—because it prevented banks that accepted FDIC-insured deposits from making these speculative bets with that money.

The Gramm-Leach-Bliley Act tore down that firewall, as well as the firewall that separated insurance from Wall Street banks, and we have seen the disastrous results of that policy. I voted against tearing down the firewall that separated Main Street from the Wall Street banks. I did it for the same reason I voted against the Wall Street bailout: because I listened to the people of Wisconsin who did not want to give Wall Street more and more power. Wall Street was gambling with the money of hard-working families and too many Members of Congress voted to let them do it. I didn't support it before and I will not support it now. We have to get this legislation right and protect the people of Wisconsin and every State—protect them from something such as this ever happening again.

So I was pleased to join the Senator from Washington, Ms. CANTWELL, and the Senator from Arizona, Mr. MCCAIN, in introducing legislation to correct that enormous mistake Congress made in passing Gramm-Leach-Bliley. I look forward to supporting an amendment to this measure based on the Cantwell-McCain-Feingold bill.

The measure before us seeks to make up for the lack of a protective firewall between the speculative investment bets made by Wall Street firms and the safety net-backed activities of commercial banking by imposing greater regulatory oversight. We have seen how creative financial firms can be at eluding regulation when so much profit is at stake. No amount of regulatory oversight can take the place of the legal firewall established by Glass-Steagall. So when it is offered, I urge my colleagues to support Senator CANTWELL's amendment to restore that sensible protection. Rebuilding the Glass-Steagall firewall is essential in preventing another financial crisis.

But even if we restore Glass-Steagall, there are additional steps we should take to address too big to fail in this bill. I am pleased to be joining the Senator from North Dakota in offering his amendment to address the problem directly by requiring that no financial entity be permitted to become so large that its failure threatens the financial stability of the United States. I am also looking forward to supporting an amendment that will be offered by the Senator from Ohio, Mr. BROWN, and the Senator from Delaware, Mr. KAUFMAN, who is in the Chamber, that proposes bright line limits on the size of financial institutions. The disposition of those three proposals I have just reviewed will go a long way in determining my vote for the final version of this measure. I very much want to craft in this body a bill that can prevent the kind of crisis we experienced in the past, but the bill before us needs some work before we can legitimately make that claim.

I thank the President and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, the Republican side has submitted a consumer protection amendment that can be briefly summarized: Buyer beware because they won't help you. This flows from the very simple premise that they have announced from the very beginning of these discussions and deliberations they do not want an independent consumer protection agency that has the authority to make rules and enforce rules to protect consumers. So what they have suggested is a classic bait and switch. We will create an ''agency'' within the FDIC, and then we will deny them the power to regulate most of the financial sectors and institutions that affect the daily lives of Americans: payday lenders, car loans, all those things. They are just off the table. So it amounts to a gesture, not good legislative policy.

We are working, and we have been working—and Senator DODD has taken the lead—to ensure that there is real consumer protection built into this Wall Street reform legislation. We believe consumers need information to make good choices. The thrust of our efforts is to ensure that the agency is able to provide that information through simplified forms, through simple products, through those mechanisms that allow men and women who are engaged in raising children, keeping jobs, coaching Little League, to understand what they are putting their resources into.

That is not what the Republican amendment is proposing to do. They are creating a six-person council within the FDIC with no real independence and even less authority, and one could question why the FDIC is the logical place to put in a council such as this. They would create an oversight agency but exempt, as I said, virtually an entire financial sector or sectors from oversight. It is not like a watchdog; it is like a lapdog. It is bureaucracy with no bite.

The Dodd bill, in contrast, contains a very robust consumer protection provision. It creates a Consumer Financial Protection Bureau with resources—I wish to emphasize resources—and authority to prohibit abusive practices and deceptive financial products, ranging from credit card companies to mortgage brokers to banks and to others. For example, it would hold the credit card companies accountable and eliminate unfair lending practices, such as penalty fees for paying off your debt on time.

One of the big efforts we are undertaking is increased transparency for Wall Street, and this consumer protection agency will provide that protection to consumers. Basic economics, Econ 101: In a competitive marketplace, one of the presumptions is perfect information. We have seen, frankly, that individuals on Wall Street have made billions of dollars operating on imperfect information; in fact, one could even suggest deliberately manipulating products so they have the information and the consumer doesn't.

I think we were all taken aback when we were listening to the hearings conducted by Senator LEVIN which talked about Goldman Sachs, and their trader, Fabrice Tourre, described the system in rather evocative terms. In his words:

> More and more leverage in the system, the entire system is about to crumble any moment . . . the only potential survivor the fabulous Fab . . . standing in the middle of all these complex, highly leveraged, exotic trades he created without necessarily understanding all the implications of those monstrosities.

Well, that seems, to me, very chilling—the fact that somebody would admit they didn't even know the products they were selling to consumers—who assumed not only that they knew but also that they would not be deliberately misleading them. That is an example. The example doesn't stop on Wall Street. It extends out to Main Street, to people with credit arrangements, payday lenders, organizations charging huge interest charges, and it is designed to exploit consumers.

The Republican proposal does little, if anything, to prevent that. I hope, on a bipartisan basis, as Senator SCHUMER suggested, we reject this amendment. It is, as they say in some places, all hat and no cattle. We have an agency, but we have no enforcement powers. We have an agency, but they can't enforce their rules and regulations on certain sectors; i.e., most of the sectors. So if we want to protect consumers and if we want to have efficient markets—I think one of the inaccurate premises that some people are suggesting is that consumer protection somehow is bad for business. I argue strenuously that consumer protection is very good for business.

If you take care of the consumer, if they feel, and you provide, valued and good service—that used to be the American sort of maxim. That used to be the American byword for business: the consumer is always right; the consumer comes first.

In the Republican legislation, the consumer comes last, not first. The consumer should come first. I hope this amendment will be rejected and that we support not only the underlying Dodd bill, but I think it can be improved. I commend the Senator from Connecticut who has done a remarkable job crafting the consumer protection agency. To accept the Republican amendment would be to turn our backs on consumers and reject essentially the old American maxim that the consumer is always right and the consumer comes first, and it will leave everybody in this country where we are today: buyer beware of the monstrosities in the marketplace.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. Madam President, I also commend Chairman DODD for his work on this bill. We have a good bill. I will be opposing the amendment presently on the Senate floor. We need a strong, independent consumer product finance protection agency. I have heard many different proposals to put the consumer product finance protection agency here, there, and everywhere. The problem with putting it in any institution like the FDIC or the Fed is that those institutions' No. 1 responsibility is, and should be, the safety and soundness of the banks and financial institutions they are regulating. That is their key charge.

I think the reason the Fed had a consumer product agency, which did not act to help consumers during the recent meltdown, was that they first were concerned about safety and soundness.

At the same time, we have to be very careful we don't put an undue burden on community banks. They were not involved in what happened. We should make sure while we are looking out for consumers that we don't overregulate these local banks.

We have a good bill. I think the too-big-to-fail part we are getting around to. The recent amendments on the resolution that if, in fact, the bank gets in trouble, we can resolve it, is a good approach. I am sure we will be talking about it more. It is a good approach to deal with the too-big part of too big to fail. We have not done enough on the too-big part of too big to fail.

Let me go over a chart that shows how big these banks have become. This is the average assets of our major banks relative to gross domestic product. If you look at this chart—and I encourage comments from my colleague, the Senator from Ohio. If you look at this chart, you will see that just about the time we removed Glass-Steagall, this chart went absolutely through the roof.

When you look at the concentration of the U.S. banking system, you see on this chart that is very similar to the first chart. It shows an exponential increase in concentration. This is not good for the country. This is not organic growth. I hear people say it is organic growth. This is growth from mergers. Neither chart includes the massive mergers that went on during 2008. This is through 2007. It doesn't show that Washington Mutual and Bear Stearns were consumed in JPMorgan Chase. It doesn't show the fact that Wachovia went into Wells Fargo, and Merrill Lynch went into Bank of America. It clearly shows that the incredible concentration just goes on.

Alan Greenspan made a number of decisions and statements while this was going on about how we should proceed during the 1990s and early 2000. He said himself that he thought self-regulation would work and was dismayed that it didn't. He came out with a couple statements recently that I was so incredibly surprised about.

He said this:

For years, the Federal Reserve had been concerned about the ever-larger size of our financial institutions. Federal research has been unable to find economies of scale in banking beyond a modest-sized institution. A decade ago, citing such evidence—

By the way, moderate size, according to Andrew Haldane, the executive director of financial stability for the Bank of England, is $100 billion. He said he can find no reason to have the need for economies of scale at banks larger than $100 billion. As you know, the present size of top banks are in the $2 trillion range, as high as $2 trillion.

Continuing to quote:

A decade ago, citing such evidence, I noted that megabanks being formed by growth and consolidation are increasingly complex entities that create the potential for unusually large systemic risks in the national/international economy should they fail. Regrettably, we did little to address the problem.

I hear people now talking about: We can't undo this. We need big banks to compete internationally. Alan Greenspan is saying we don't need these for the economies.

Mr. BROWN of Ohio. If the Senator would yield, I thank the Senator for bringing out that there is such broad support, as we are seeing, from economists as conservative as Alan Greenspan and as progressive as Bob Reich, and others, who say too big to fail means simply too big. Our amendment will only affect the six largest banks—affect their size—and it will affect smaller banks in helping them be more competitive.

You said something on the Senate floor yesterday that, in effect, the size of these banks gives them a subsidy, a roughly 75 basis point or three-quarters of 1 percent advantage in the capital markets. This amendment we have, which is gaining increasing support—we have now 10 or 11 cosponsors to it, and we are working with people on both sides—simply to say too big to fail is too big.

Talk to us for a moment about how these banks get the subsidies. Somebody in my office said in a sense we are giving welfare to the Wall Street banks. Because of their size, they are getting advantage on the capital markets because investors, with their dollars, understand these banks are never going to be able to fail unless we really keep them from getting too big.

Explain that Wall Street welfare that we see with these 50 literally trillion-dollar-plus banks, which they extract from the system.

Mr. KAUFMAN. Sure. I don't come at this from any other area except how important our capital markets are. I am a market guy. I think the two greatest things we have are democracy and our capital markets and the credibility of the markets. So when I want to find out what is going on in a financial area, I don't do a survey of 27 people. I say: What is the market telling us? That is the best way. What does the market tell us about what is going on?

What the market says is, if you are a big bank like one of these top banks—referring to the study I talked about yesterday—if you are one of the big banks, you get a 70 to 80 basis point advantage when you borrow money. You pay less than other people.

Mr. BROWN of Ohio. So that means when one of the huge Wall Street banks—these six banks—is getting a three-quarters percent, roughly, interest rate differential—a bonus, perhaps—that means that banks in Delaware and Ohio that aren't so big are at a competitive disadvantage. I assume that also means those big banks have opportunities to get larger. If the playing field is not level, those toward whom it tilts get other advantages and grow larger and larger, making the point of our amendment that much stronger.

Mr. KAUFMAN. Absolutely. Obviously, that is a key point. I am surprised that more of our smaller banks aren't coming forward and saying this isn't fair. The market says it is not fair.

The second point is the too big to fail. You can argue that you are not too big to fail. But the market thinks you are, and I listen to the market. That is one of the important considerations. Unless people misunderstand—people say you want to destroy the banks, and the rest of that. But under our amendment, Citigroup would be reduced to the size it was in 2002.

Now, were they able to compete overseas and do all the things they had to do then? Goldman Sachs, which is now at about $850 billion, under the Brown-Kaufman amendment would be down to a more reasonable level of just above $300 billion or around $450 billion if Goldman exits the bank holding company structure. You may say that is a 50-percent decrease and that is going to hurt their opportunity. In 2003, they had $100 billion in assets. So all we are shrinking Goldman Sachs down to is 3 to 4½ times what they were in 2003.

This is not some draconian effort. The second point we have been focusing on is that we also limit risk. This is not about size; we limit risk. I recommend everybody to read the Washington Post today—that is where I read it—about Jimmy Cayne, former CEO of Bear Stearns. He testified to the Financial Crisis Inquiry Commission that, in his opinion, as CEO of Bear Stearns, they failed because it was leveraged 40 times over its capital base—40 times over its capital base.

Brown-Kaufman would cap leverage at 16 times the capital base. What he is basically saying is that if Brown-Kaufman had been in effect, Bear Stearns would not have failed.

A lot of people have different opinions, but that is what he says. This is not just about size; this is about risk. What we are trying to do is target risk. These banks don't fail—banks are doing great now; profits are out the roof. You don't fail on a nice sunny day. You cannot sit here today and say no problem. That is why regulators don't do anything because, basically, banks are doing well.

Time and again, when we had hearings before the Permanent Subcommittee on Investigations, we heard from Washington Mutual and Goldman Sachs. They said they were doing so well. How can you make them change? The fact that they were doing so well by turning out mortgages that were absolutely doomed to fail is an indication that they should have moved in, but the regulators didn't.

I will not hold this out, but if you want to see what can happen under the worst case, look at Europe today. Look at the mess unfolding in Europe. Greece falters and that affects confidence in other countries such as Portugal, Spain, and Ireland. Europe and other banks have massive exposures to these countries. German and French banks carry a combined $119 billion in exposure to Greek borrowers and more than $900 billion to Greece and other vulnerable Euro countries, including Ireland, Portugal, and Spain.

People say: How can we compete with those big banks? Remember, we are only reducing Citibank to its size in 2002. How can we compete with Europe? Why do we want to do that? Why do we want to go in with their megabanks and deal with the problems they have?

The Royal Bank of Scotland had a balance sheet basically 1½ times the size of the UK economy when it failed in the fall of 2008. See these numbers. It is 63 percent right now. Our six largest banks make up 63 percent of the GDP. The Royal Bank of Scotland's was 1½ times the size of the United Kingdom when it failed. People say the big banks didn't fail; it was the small banks that failed.

I keep hearing that J.P. Morgan and Bank of America did not fail. It was Washington Mutual. They say there is no correlation. Megabanks, such as Citigroup, only survived through massive capital infusions, regulatory forbearance, and Federal monetary easing. Even J.P. Morgan has benefited from not having to write down its second lien mortgages and commercial real estate.

The next thing they said when Washington Mutual failed was: How about that, that was a smaller bank. That was a big bank. The reason it went down is because we knew at the time when it failed that JPMorgan Chase would come in and grab it.

I ask the question: Who is going to bail out, if something goes wrong, JPMorgan Chase, Bank of America, or any of these six larger banks? Remember, going back to Citigroup, Citigroup essentially failed and had to be bailed out three times in the last 30 years: in 1982 because of the emerging market deck, 1989–1991 because of commercial real estate, and 2008–2009 because of residential real estate.

Mr. BROWN of Ohio. Madam President, will the Senator yield? I appreciate this analysis. I hear, as we talk about the Brown-Kaufman amendment—and it has gotten increasing attention because an increasing number of people said too big to fail is too big and that if we allow these six banks—that chart the Senator showed originally—the largest six banks in the United States 15 years ago were 17 percent of our GDP and today they are 63 percent and growing, as Senator KAUFMAN mentioned.

Mr. KAUFMAN. Exponentially.

Mr. BROWN of Ohio. Look at the rate of growth. They did not grow a whole lot until the last 10 years, and look what happened. They are going to continue to grow since the Glass-Steagall repeal.

The argument opponents of our amendment use most frequently is: We do not have the largest banks in the world anymore. There are larger banks other places. And how are our banks going to compete with these huge banks?

I am intrigued by that because our banks are trillion dollar banks. I know there are studies that banks with assets of $300 billion and $400 billion and $500 billion have all the economies of scale. Economies of scale do not work forever.

Mr. KAUFMAN. According to Alan Greenspan.

Mr. BROWN of Ohio. A bank that is $300 billion, $400 billion, $500 billion has all the economies of scale as a trillion dollar bank.

The point they make about European—we cannot compete internationally—it is clear from what the Senator from Delaware said, all of our banks, when they were smaller—smaller than the largest banks in the world—could compete internationally 10 years ago, and there is no reason they cannot compete like that today.

I found the huge lumbering bureaucracies, whether they are a bank or whether they are the Center for Medicare and Medicaid Services, are not as flexible and nimble and cannot keep up with the market nearly as well if they are that big.

The Brown-Kaufman amendment, again, does not apply to very many institutions. No more than five or six will be even unwound a little bit. We are not going to split them all up so they are small, little community banks. They are still clearly going to be able to compete. There is no question about it under the Brown-Kaufman amendment. We give 3 years to banks to sell off some of the assets, to spin off a line of business, to sell regional operations they may have in one area of the country to comply with this amendment.

It is clear that as increasing numbers of people say, "Too big to fail is too big," that if we allow these banks to keep getting bigger and bigger—and we see this chart where the six largest banks in total assets end up being 70 percent, 80 percent, 90 percent of GDP—it is hard for me to think that if one stumbles and is about to fail that we are going to let it fail, that government will let it fail because it will have huge repercussions because of the economic power these institutions have.

Mr. KAUFMAN. We all agree the present bill is a good bill and has a good resolution authority that has been worked on for years. My basic concern is we need a little prevention in the mix.

As I said before, when people say we cannot compete overseas, do we want to go where the Royal Bank of Scotland went? The Royal Bank of Scotland was 1½ times the UK economy when it went down. Do we want to get into this mix in Europe? Is this the place we want to be with these banks facing the problems they are going to have right now, as we went through this earlier? Is this the place we want to be?

I think we go back to what Senator DORGAN was saying earlier, and I wish to add to that with a couple comments. Once again I quote Alan Greenspan. He said: "Too big to fail, too big." "Too big to fail, too big."

The idea that we should turn this over to the regulators and let the regulators set the rates—that is the alternative. The alternative is to let the regulators do it. We have good regulators now. I think that is fine.

Remember several things. No. 1, the regulators did nothing. The regulators had the power to do most of what we are talking about. They did nothing in the past.

The second thing is, we could have a new President come in and adopt the same policy as before that self-regulation works, hire a bunch of regulators to go in there, such as a number of regulators we had in our regulatory agencies—they were not bad people. They were smart people. They just basically believed self-regulation works. To quote Alan Greenspan for the third time in this speech, he said: "I really thought self-regulation would work. I'm dismayed that it didn't."

We can have it come back. There are still people today who believe—we hear it sometimes on the floor—we do not need these regulators. The example I use is a football game where somebody gets up and says: The referees keep blowing the whistle and stopping the play. Let's get the referees off the field and play football. That is what was going on around here.

As many of my colleagues on the other side point out, there was not enough oversight on these regulators. But you pull the football referees off the field, maybe the first pileup will not be bad, but by the time you get to the second and third pileup, I do not want to be in it.

I think we ought to go back to what our colleagues did in 1933, and we should regulate not for 5 years, 10 years, 15 years; we should regulate for generations. Much of the stuff in this bill does regulate for generations. We should put in the bill hardline, adopted by us to send a message for generations that this is not going to happen again. Bear Stearns is not going to be able to leverage up to 40 times their capital base. That is what we need to do. We need to legislate for generations.

Madam President, I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Tennessee.

Mr. CORKER. Madam President, I am here to speak about the consumer protection title in the Dodd bill. I do want to say that while I disagree with my friends from Delaware and Ohio in their approach, I appreciate the way they have conducted themselves. I think the debate we have had on the floor on this bill, I say to the Senator from Connecticut, has been of the highest level that I can remember in a long time. I thank him for setting that tone. I thank my caucus for offering nothing but constructive amendments. People on both sides of the aisle have tried to do that.

It took a while to get here, but we are on the floor. Obviously, there are a lot of improvements people would like to make to this bill, and I think people are focused on doing that. I thank the Senator for setting that tone.

At the same time, I do want to talk about the consumer protection title on which I wish to see vast improvement. I wish to see consumer protection take place. I think everybody in this body wishes to see that happen. But I believe that the consumer protection title that exists in this bill is one that gets back to the essence of what the White House has said many times, and that is: Never let a good crisis go to waste.

I think the consumer protection title in this bill is a vast overreach. It is my hope—I know we will have a vote later today on a different title. If that is not successful, maybe there will be surgical attempts to deal with some of the problems in this title.

For the first time in our country's history, we will be giving vast powers to an individual to be involved in almost every aspect of any type of financial transaction. Without a board, without any kind of check and balance, the Dodd bill creates someone heading consumer protection who has no one as a check and balance. This person is going to be able to write rules, and this person is going to be able to enforce those rules over our entire economy as they relate to financial transactions.

I know there is a process by which if a rule is felt to be problematic after it is put in place—not before—after a rule is put in place, there is the ability of a board to actually look at those rules. The fact is, if a standard is set so high, it would be very difficult to ever overturn the rules that would be put in by this consumer protection agency.

It has a vast budget. It sets its own budget, I might add. Again, Congress has nothing whatsoever to do with that.

Some of the biggest problems with the consumer protection agency are not just that it has no checks and balance, it writes rules and enforces rules, it sets its own budget. On top of that, it overturns the way our national banking system has worked for years. Congress years ago decided we wanted to have a national banking system, that we wanted the ability of banks to operate across our country in a way that they had consistency, they knew under what rules they would be operating.

The Dodd bill overturns that. It says there is no Federal preemption anymore. If States want to change laws, write laws—we could have a bank that operates in 50 States that has 50 different sets of regulations if this bill passes. That is highly problematic with banks that operate across our country serving companies that operate across our country. One can imagine a bank that tries to adhere to all of those States laws that might come up as a result of this bill.

In addition, this bill then unleashes 50 attorneys general on these banks. That is something, again, that is not the case today. This is a huge overreach, and it is going to be highly disruptive to our banking system.

What it is going to do, because there is no Federal preemption, is actually encourage general assemblies, State legislators across this country to become hyperactive. One of the things that State banks—not Federal banks, not national banks—one of the things State banks like about our existing laws—by the way, State banks are not these huge megabanks about which my friends from Delaware and Ohio were talking.

I think State banks across the country have enjoyed—again, these are the smaller institutions—the fact there is something called Federal preemption. That has discouraged hyperactivity on behalf of State legislators to create laws that might be populist in nature, that might be done to, in essence, use our financial system for other ends.

One of the things I think is most disruptive about this legislation is that—if you can imagine this—I think all of us realize what led to this last crisis is the fact that we had very poor underwriting of loans. That is the essence of this last crisis. It got spread around the world, the fact we had incredibly poor underwriting.

I hope to fix that, by the way, with an amendment in a few days. I hope it comes up, and I hope it is adopted.

What the Dodd bill does is give to a consumer protection agency loan underwriting standards. If you can imagine that. I would like for people in this body to think about that. A consumer protection agency being involved in setting underwriting standards for loans has to undermine the safety and soundness of our financial institutions. To me, that is a huge problem.

All of us would like to see consumer protection take place. All of us would like to see it, I hope, take place in a way that is balanced, so the consumer protection laws that are put in place are put in place in a way that is balanced against ensuring that our financial institutions across this country are safe and sound; that people know they can go to those institutions and they are going to operate.

I believe the Dodd bill, as it relates to consumer protection, is a vast overreach. I know people on the other side of the aisle have come up to me and said: Look, this is problematic, and if you guys can help us figure out a way to peel this back, we would like to be able to do that.

We are going to have a chance, later today, to vote on a consumer protection amendment that has certainly brought this more in balance. There may be other ways of getting at it. I would urge the chairman to consider looking at ways to peel this back because I do believe that, again, we are going to awake in this country—if the Dodd bill passes in its present form—in 10 or 15 years and realize consumer protection has gotten out of hand; that consumer protection has been used, in many ways, to create social justice, if you will, in our financial system. To me, that is something that is very dangerous.

Let me just add one other thing. There is a new word in this title that is undefined. It is a word that says they will also be looking to see if practices were abusive. But nobody knows what that means. Nobody knows what that means. Under this bill, by the way, if someone were to come in after the fact and find that something was "abusive," it would negate the financial transaction that was entered into. So you could have a zealous consumer advocate come in and say: I am sorry, this loan that was made between two parties was abusive, and it would negate that transaction.

This bill is a huge overreach. It obviously goes right along the lines of the White House saying you should never let a good crisis go to waste. This bill is going to be around for a long time, if it passes. So I hope what we can do, over the course of the next several days, during this time when we are having one of the most civil debates I think we have had in the Senate since we have been here—a high level of civil debate—I hope we will be able to put this back in balance.

I know the Presiding Officer is from a State where people care a great deal about their financial institutions. So I hope to work with her and my friend from Minnesota and others to try to achieve that balance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I will respond more fully a little later because my colleague and friend from Minnesota is on the floor to be heard, but I just wish to say that a lot of work went into this bill on consumer protection.

You don't have to wait 10 or 15 years to find out what can happen. We have watched painfully what can happen over the last several years, when the very people—the prudential regulators—should have been standing and saying: No-doc loans are wrong and dangerous. In fact, it was consumer groups that warned about the real estate bubble. We were being told everything was safe and sound because people were making money, and it looked like it might go on forever.

Of course, everyone has 20/20 hindsight looking back as to what occurred. But had we had in place someone saying: No-doc loans, no downpayments, adjustable rate mortgages at fully indexed prices are going to cripple people's ability to meet those obligations, we wouldn't be in the situation we are in today. None of the seven agencies that have jurisdiction over consumer protection were doing their job very well.

I will address more specifically the alternative idea being suggested, and let me also say I have never claimed our proposal on consumer protection is perfect. I acknowledge the word "abusive" does need to be defined, and we are either talking about striking that word or defining it better. Deceptive and fraudulent cover the ground pretty well, but I thought abusive was a pretty good explanation point. Because it was abusive, in common language.

So I will come back later, but I wished to acknowledge that we have a number of organizations that have endorsed this bill of ours, strongly support our committee bill, ranging from the Americans for Financial Reform, the Consumers Union, Center for Responsible Lending, the Consumer Federation of America, U.S. PIRG, Public Citizen, the National Consumer Law Center, Consumer Watchdog, and AARP.

Of course, we are all familiar with the group representing older Americans. In fact, I ask unanimous consent to have printed in the RECORD, at this point, a letter from AARP, opposing the Shelby substitute on the consumer protection title.

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

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, DC, May 6, 2010.

Re Oppose Shelby substitute Consumer Protection title to S. 3217.

DEAR SENATOR: A key priority for AARP in the financial reform legislation is strengthened consumer protection that will help restore market accountability and responsibility, rebuild confidence, and ensure the stability of the financial markets. Surveys conducted by AARP demonstrate that Americans 50+, regardless of party affiliation, want Congress to act to hold financial institutions accountable.

AARP supports the creation of a Consumer Financial Protection Bureau, as incorporated in S. 3217, that would have as its sole mission the development and effective implementation of standards that ensure that all credit products offered to borrowers are safe. We have been clear that such an agency should be truly independent in its leadership, funding, staff and decision-making; that it should have the authority to oversee all lenders and products in the marketplace; and that it should have broad rulemaking, enforcement and supervision powers over all types of providers. We also have insisted that the states must be the ‘‘cops on the beat’’ with the authority to move against abusive practices that arise locally.

Judged against this criteria, the Shelby substitute Consumer Protection title fails in virtually every instance. The consumer protection agency will not be independent; rather the FDIC Board of Directors must approve all rulemaking. Inadequate resources will cover rulemaking and supervisory expenses only; there is no funding for enforcement. Oversight and enforcement is extremely limited. For example, the new agency will have no enforcement authority over any bank or other type of depository institution. Nonmortgage companies will be subject to supervision only if they demonstrate a pattern or practice of violating the law within the past three years. And, the bill does not give the states the authority to take action where necessary.

We respectfully urge you to vote NO on the Shelby substitute Consumer Protection title when it comes up for a vote today. If you have questions, please feel free to call me or have your staff contact Mary Wallace of our government relations staff at (202) 434–3954 or mwallace@aarp.org.

Sincerely,

DAVID P. SLOANE,
Senior Vice President, Government Relations and Advocacy.

Mr. DODD. So major groups, ones that are consumer oriented as well as those that watch out for older Americans—many of whom have to pay mortgages, are on fixed incomes—are worthy of note.

Again, I wish to thank my colleagues for their comments and thoughts on this amendment, and I will address more of that later, but I will yield the floor.

AMENDMENT NO. 3808

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. FRANKEN. Madam President, I rise to speak about the need to further address the problems of the credit rating agency industry. Senator DODD has presented us with a very good bill that takes major strides in addressing many of the problems that brought our economy to the brink of collapse. It reins in too big to fail, brings derivatives out of the shadows, and creates a new consumer watchdog that will prioritize consumer protection over Wall Street profits.

Senator DODD's bill includes several provisions on credit rating agencies. It holds rating agencies accountable in court for being reckless in their duties, it requires increased disclosure, creates new complaint systems, and requires raters to use information beyond what is provided by issuers.

These are a few of the many provisions the Dodd bill includes to begin to address issues with credit rating agencies, and they are all good. But one thing it doesn't do is get at the underlying problem—the conflict of interest inherent in the issuer-pays model, where the issuer pays the rating agency.

To root out conflicts of interest completely, we must change the vested interests of each of the players. The central conflict of interest can be boiled down to this: The issuer has an interest in obtaining a high rating so it can sell its product. The credit rating agency has an interest in giving out a high rating so it can sell its service. Tom Toles, of the Washington Post, depicts the problem quite well in this comical cartoon.

Here we see the rating agencies—he labels them that so you know it is them—giving three 10s to a figure skater—labeled Wall Street, and he is kind of fat there. You see he says: ‘‘I pay their salaries.’’ That is why he is getting three 10s—or a AAA—and yet he is a figure skater and he is dumping trash. We see an apple core, there is a fish head, skeleton, a banana. You don't want those on the ice. You just don't want that. That is bad. Then there is a little figure here, the little garbageman. It says: ‘‘Somebody else pays to clean the ice.’’ That, of course, is us—the taxpayers.

I think after seeing this cartoon, if there is anyone who doesn't support my amendment, I don't know what to do. Anyway, this actually makes the point very well that the issuer is paying the rating agency and, hence, the AAA.

However, the credit rating agency should have an interest in providing accurate ratings—unlike the triple 10s in this cartoon—so investors are provided with the accurate information they need to make investment decisions. But for the reasons I just described, there are very few incentives to provide accurate ratings. The market simply doesn't reward accurate ratings.

The best way to fix this problem is to change the way the market works so it rewards accurate ratings. Once we start getting accurate ratings, investors can make better decisions about the products they are selecting for inclusion into pension funds. Having safe products in pension funds protects the retirement security of hard-working Americans.

Let me give you an example of the perverse incentives that have been driving the credit rating agency industry thus far. My friend and colleague Senator LEVIN recently held a hearing in the Permanent Subcommittee on Investigations. His investigators released many e-mails from the industry that reflect the conflicts of interest that drove the system.

Here is a good example. There is a rating agency employee writing to his own rating agency people about a group of theirs, a group within his rating agency.

We are meeting with your group this week to discuss adjusting criteria for rating CDO's of real estate assets this week because of the ongoing threat of losing deals. Lose the CDO and lose the base business.

So here the credit rating agency is proposing to change its rating criteria to avoid losing business. This is exactly what was at the root of all these AAA-rated, subprime, mortgage-backed securities that were leveraged and had the CDOs on them—these exotic instruments that were rated AAA—and what created this entire mess. It is clear the incentives are to keep customers coming back, to make sure accurate ratings aren't driving customers into the arms of other rating agencies—don't want to let accuracy get in the way of more business.

We need to change the incentives. I believe my amendment, No. 3808, will do that. The amendment tasks a board—a self-regulatory organization—with selecting a pool of qualified credit rating agencies. The board would then choose a system to assign, one at a time, one of these qualified credit rating agencies to each request for an initial credit rating. Issuers could no longer shop around for the best rating. They could, however, get a second, third or fourth rating from any agency they choose. But the first assigned rating would provide a check against the next agency inflating its rating.

The amendment would require the board to consider a rating agency's past performance and could adjust the number of rating assignments based upon demonstrated accuracy. If a small rating agency began performing extremely well, the board could start giving it more assignments, breaking the oligopoly of the big three raters, which served us very poorly, or maybe the big three would get their act together under this new system.

The point is, when the agencies are finally operating in a market in which accuracy is valued, they will compete on the basis of accuracy. When accuracy is driving growth, not preexisting relationships or sweetheart deals, smaller rating agencies will have an opportunity to compete and grow, making the industry more robust.

So properly addressing conflicts of interest in the credit rating agency industry necessitates realigning the interests of rating agencies with the interests of investors. The way to do that is by promoting and rewarding accuracy. My amendment will create these incentives, increase accuracy, promote competition and stability, and restore integrity to the credit rating industry system.

I thank my colleagues, Senator SCHUMER and Senator NELSON, for helping me lead this effort and Senators WHITEHOUSE, BROWN, MURRAY, MERKLEY, and BINGAMAN for joining us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I rise today to discuss the amendment that Senate Republicans are offering to greatly improve consumer financial protection.

This amendment recognizes that our existing financial regulatory system fails to adequately provide consumer protection. Our system is broke, and it needs fixing.

The recent financial crisis has revealed that our financial regulators were asleep at the switch and had neglected to uphold their basic responsibilities for consumer protection.

Far too often, our regulators were more concerned about pleasing the entities they regulated than looking out for consumers. It is clear that we need to refocus the priorities of our financial regulators and ensure that consumer protection gets the attention it deserves.

Make no mistake. Republicans want to strengthen consumer protection.

We need to make sure that consumers get clear and understandable disclosure so that they can make good decisions.

We need to make sure that regulators have sufficient authority to combat fraudulent practices.

We also need to make sure that our consumer protection laws and regulations keep up with changes in our dynamic and innovative marketplace.

Any changes to consumer protection, however, need to reflect that consumer protection does not stand in isolation. It is inherently linked with safety and soundness regulation.

This is most dramatically illustrated by the fact that an ill-conceived consumer protection law, such as allowing for no down payments, could cause banks to fail.

Given that taxpayers are ultimately on the hook for bank failures, it would be irresponsible not to require regulators to consider the impact proposed consumer protections could have on the deposit insurance fund.

After all, one of the most important consumer protections is a healthy financial system, where financial institutions are able to keep long-term commitments to consumers, like annuities, insurance, and retirement funds.

The amendment we are proposing embodies this approach. It would put the FDIC in charge of writing consumer protection regulations. That responsibility currently rests with the Fed.

As a prudential regulator, the FDIC has the experience necessary to ensure that the right balance is struck between consumer protection and safety and soundness.

To raise the status of consumer protection, a new division will be established at the FDIC. The division will be led by a Presidentially appointed and Senate-confirmed director.

The director will serve a term of 4 years and will be required to testify before Congress at least twice a year. This will help ensure that regulators are held accountable for their actions on consumer protection.

In addition, this amendment does not disrupt the century and a half of precedent on preemption with respect to national banks.

We should be very cautious about allowing national banks to be regulated by 50 different States and opening up the door to needless state litigation that only enriches trial lawyers and raises costs to consumers.

The Republican amendment also grants the FDIC primary supervision and enforcement authority over large nonbank mortgage originators, and other financial services providers that have violated consumer protection statutes.

This will give the FDIC broad authority to clamp down on the worst offenders of our consumer protection laws without needlessly subjecting law-abiding businesses to expensive regulation.

The Republican approach to consumer protection sharply contrasts with the approach of the Dodd bill.

Under the Dodd bill, the Consumer Financial Protection Bureau would issue rules without considering their impact on the safety and soundness of financial institutions.

Need I remind my colleagues that this is the same regulatory model that produced the fiascos at Fannie and Freddie. In that case, HUD wrote rules on their housing goals and underwriting standards, while OFHEO regulated them for safety and soundness.

Do we need a better example of the foolishness of divorcing consumer protection from safety and soundness?

How did that regulatory model help consumers? It certainly left them with a huge tax bill to cover the government bailout.

An examination of the powers and size of the bureau established by the Dodd bill shows further how the Republican approach differs from the approach advocated by the Obama administration and the Democrats.

They start with the assumption that small busiesses are, in President Obama's words, "bilking people" and that heavyhanded regulations and an extensive bureaucracy are the only ways to ensure that small businesses do not take advantage of their consumers.

I do not believe that the tens of thousands of small businesses—the florists, the retailers, the dentists, the auto dealers—that fall within the regulatory reach of their new bureaucracy are "bilking" people. I also know that these entities had nothing to do with the financial crisis.

Unfortunately, the Dodd bill would create a massive new bureaucracy with unprecedented powers to regulate small businesses and consumers.

The Consumer Financial Protection Bureau could dictate exactly what forms business must use, who they provide services to, and how they sell their products.

Control over American businesses would shift further from entrepreneurs to bureaucrats in Washington.

Perhaps the most troubling aspect of their approach is that it assumes that consumers need benevolent bureaucrats to make decisions for them. In order to make that happen, the Dodd bill authorizes the new consumer agency to collect any information it desires.

Small businesses across this country fear the massive and potentially very intrusive new bureaucracy created under the rubric of consumer protection. They have every right to be afraid.

This massive new government bureaucracy has the power to place individuals under oath and demand information about their personal financial affairs.

The new bureaucracy is also required to report to the IRS any information it gets that it believes may be evidence of tax evasion.

Why does their new bureaucracy need these incredible powers? Because their bill envisions the bureau analyzing and monitoring Americans' behavior and then issuing regulations to stop them from doing things the bureaucrats deem "irrational" or "inappropriate."

Just read the writings of the Assistant Secretary of Treasury for Financial Institutions, one of the chief architects of this expansive new bureaucracy. He has written how "regulating . . . appropriately is difficult and requires substantial sophistication by regulators, including psychological insight.''

Let me translate this academic jargon.

He is saying that all-knowing regulators should be empowered to make decisions for consumers because benevolent regulators are the only ones who possess the right ''psychological'' mind set to do things ''appropriately.''

Think about it a minute.

Regulators are wise and should be heeded; consumers are foolish and should do as they are told. That is what we are talking about here.

The architects of this massive new bureaucracy have long argued for a consumer bureaucracy with the right ''culture.''

Whether that ''culture'' focuses on consumer protection and a safe and sound banking system or it becomes a way for community organizers and groups like ACORN to grab Federal resources is left wide open.

One of the strongest proponents for the new consumer bureaucracy has been Treasury's Assistant Secretary for Financial Institutions, as I said.

Allow me to read into the RECORD a couple of quotes from a paper entitled ''Behaviorally Informed Financial Services Regulation'' coauthored by the Assistant Secretary Barr in October of 2008.

The Secretary writes, ''Because people are fallible and easily misled, transparency does not always pay off. . . .''

He writes that: ''. . . regulatory choice ought to be analyzed according to the market's stance towards human fallibility.''

On regulation, he writes that: ''Product regulation would also reduce cognitive and emotional pressures related to potentially bad decisionmaking by reducing the number of choices. . . .''

He is talking about choices in the market place. Yes, the administration's chief advocate believes that benevolent regulators need to reduce choices for the consumer so that they can be protected from bad decision making and their own inherent fallibility.

He also opines on the topic of disclosures where he states that:

> [D]isclosures are geared towards influencing the intention of the borrower to change his behavior; however, even if the disclosure succeeds in changing the borrower's intentions, we know that there is often a large gap between intention and action.

I believe that regulators need to ensure that consumers have the information they need to make their own decisions based on their needs and circumstances.

The proponents of behavioral economics believe, however, that regulators need to influence peoples' intentions and change their behavior so that they make decisions that the regulator deems appropriate for them. As I have said before, this is the nanny state at its worst.

Finally, he writes of a proposal on late fees charged by financial service providers.

He writes:

> Under [his] proposal, firms could deter consumers from paying late or going over their credit card limits with whatever fees they deemed appropriate, but the bulk of such fees would be placed in a public trust to be used for financial education and assistance to troubled borrowers.

The translation is that behavioral economists not only believe that they are best positioned to make decisions for us, but they are also best positioned to decide how private companies spend their money.

Needless to say, this is a disturbing perspective, but it does reveal just how much the Obama administration wants to empower bureaucrats.

We should remember that the failure of our existing regulators, primarily the Federal Reserve, to properly enforce consumer protections helped cause the crisis. Yet the Dodd bill's response is to create a bigger bureaucracy and hire more bureaucrats at the Fed.

In contrast, the Republican amendment would make the changes and improvements that we all can agree need to be done, but would do so in a more focused and prudent manner.

The expansive reach of the Dodd bill means that the new bureau is going to be expensive. The budget for the bureau is approximately $650 million in new taxpayer costs, funded Argentina-style by tapping the central bank's money-printing powers.

In comparison, the budget for the Office of the Comptroller of the Currency, our national bank regulator, is currently $750 million, and that agency does both consumer protection and prudential supervision.

Under the Republican plan, industry, not taxpayers, would pay the costs of consumer protection.

Despite giving the bureau a huge budget and vast powers, the Dodd bill fails to take any reasonable steps to hold the bureau accountable.

The bureau receives all of its funding from the Federal Reserve, beyond both congressional and executive oversight.

The bureau has complete discretion on how it spends its budget, allowing it to devise programs for backdoor funding of special interest groups like ACORN and other liberal activist groups.

The more we learn about the Dodd bill's approach to consumer protection, the more I believe the Republican approach makes more sense and strikes the right balance.

The Republican amendment wisely places consumer protection in a financial regulator, the FDIC, but enhances the status of consumer protection by creating a new division of consumer protection.

It holds regulators accountable and ensures that repeat violators of consumer protection laws face stiffer penalties and regulation.

The Republican amendment avoids creating costly new bureaucracies and imposing unnecessary costs on small businesses that had nothing to do with the crisis.

We all agree that consumer protection needs to be modernized and given more attention by our regulators.

I believe the Republican approach does this. And it does so without building the expansive and expensive bureaucracy contained in the Dodd bill.

Most importantly, the Republican approach ensures that consumers are protected, but that they, not bureaucrats, are ultimately the ones making decisions for themselves.

I have heard from productive American companies—from tractor manufacturers to beer brewers—from motorcycle manufacturers to public utilities that provide heating fuel to your home—and they strongly oppose this bill because it will increase their operational and risk management.

I have heard small responsible business owners, who offer their customers the convenience of installment payments, express serious concerns about the potential for an out-of-control consumer bureaucracy that the Dodd bill creates.

Although the bill's supporters have and will argue that the fears are unfounded because the bill says that merchants not engaged ''significantly'' in offering consumer financial services are excluded from the new consumer regulatory bureaucracy.

The bill does not, however, define what the word ''significantly'' means—leaving that to the discretion of the benevolent bureaucrats.

The supporters of this massive new government agency trust the bureaucrats. I trust American small business owners.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I congratulate the Senator from Alabama for his comments and for his proposal, which he described as a Republican proposal. Of course, what all of us hope is that it becomes a bipartisan proposal as our friends on the other side look carefully at it. That is what happened with the big bank bailout provision we worked on yesterday. Senator DODD and Senator SHELBY worked for a while, Senators CORKER and WARNER had worked before that, and we came up with a conclusion that all but five Senators agreed to. Now we have moved to address two of the other major deficiencies in the Dodd bill that we have wrapped up in one proposal here, and it is really wrapped up with the central issue that is before the American people.

President Obama said in September of last year that the health care bill was a proxy for a larger issue about the role of government in Americans' lives. The President was exactly right about that, and we have seen the issue of government's role over and over again. I don't think it will change between now and the November election. In fact, the President said at our health care summit that is why we have elections, and

I think he is correct about that. We have seen a Washington takeover of banks; we have seen a Washington takeover of car companies; we have seen a Washington takeover of many aspects of health care; we have seen a gratuitous Washington takeover of student loans. In this financial regulation bill, instead of dealing with the high jinks of big banks, we are going to take over Main Street lending and, on top of it, create a new czar or czarina to make decisions about millions of transactions across America that are on Main Street.

So what Senator SHELBY's proposal offers—and we hope it receives the same kind of bipartisan consideration that the resolution authority or the big bank bailout discussion did yesterday that we finally agreed on—is that we would like to change this bill in two ways. Republicans would like to say: Let's take Main Street lending out of it. The Senator from Connecticut, Mr. DODD, said it is not in there. But the language makes it look as if it is in there. It looks like we're about to start regulating your daughter's dentist bill, the plumber, and the store owners up and down Main Street who give you flexible credit. In other words, if you say: You can pay me over time—it looks as if Congress is going to start regulating that transaction.

That is going to make credit harder to get because the dentist or the plumber or the store owner is going to say: I'm not going to fool with it. I don't want to be regulated by some Washington bureau, so if you want to buy my goods, go to the bank and get some money or get another credit card.

And you know what that is going to do? That's going to slow down the economy. That's going to make jobs harder to create because it is going to make credit harder to obtain and credit harder to offer.

Making credit harder to get is not what we need at this time. We just had the reports of the economic growth of our country during the first quarter. It was 3.2 percent. That is not very good. I can vividly remember flying on a helicopter with President Bush when I was Education Secretary in 1992, and the economic growth of the third quarter of the year was better than that; it was 4.2 percent. And Bill Clinton beat George Bush, Sr., on the ''It's the Economy, Stupid'' campaign. So 3.2 percent is not going to cut it for our country. Most economists say that if our economy continues to grow over the next year, through 2010, at the same rate it grew in the first quarter, the unemployment rate will not change. The unemployment rate will still be about 9 or 10 percent at the end of this year, as it is today.

What can we do to change that? Well, we have to create an environment for job growth. We have done pretty good in creating job growth in Washington. The one place the stimulus has really worked is in Washington, DC. Salaries are up. Jobs are up. There are plenty of new jobs around here. But out across America, we are not creating enough new jobs, and too many of the things we are doing here make it harder to create new jobs.

The health care bill makes it harder to create new jobs because it imposes taxes on job creators and it imposes taxes on investors. Tax increases make it harder to create new jobs. Running up the debt—the President's budget doubled the debt in 5 years and tripled it in 10 years—makes the economy less certain and it makes it harder to create new jobs. And the threat of creating a czar or czarina in Washington, DC, and a new bureau to supervise and make Main Street lending more difficult and expensive makes it harder to create new jobs. We should take it out of the bill.

If the Senator from Connecticut, who is one of our finest Senators, and is well intentioned, wants Main Street lending out of the bill, let's just take it out of the bill. Let's don't leave in there the possibility that someone might come along and interpret ''significantly'' involved financial activities to include the plumber and the dentist.

This has attracted the attention of a lot of people from Tennessee: community bankers, credit unions, and the National Federation of Independent Businesses. They are talking about office suppliers, jewelers, health professionals, and furniture stores who are all concerned with this bill. The NFIB estimates that about 50 percent of small businesses let you pay over time. In other words, they offer you credit. They make special arrangements. They say: OK, we know you don't have all of the cash right now. You might not want to run up your credit card or maybe your credit card is near the limit, so we will sell you whatever we have to sell you or we will provide the service you need. You can pay us in 6 months. You can pay us in 5 months.

Well, under this bill, if you offer payment plans you could be ''significantly'' involved in financial activities. Then this czar or czarina in Washington, DC, is going to be regulating you. You might be a very small business and you might not have a lot of extra money to fill out regulatory forms, but you are going to be filling out forms and suffering more regulations. And you are going to be offering less credit and credit will be harder to get up and down Main Street.

If our real intention in this body on both sides of the aisle is to not interfere with Main Street lending, then let's actually do that. That is what the Republican amendment—which we hope becomes a bipartisan—does.

Then there is the second big idea that is in this Republican amendment. So far as I am concerned—we don't need another czar. This bill is supposed to be about big banks, about financial high jinks on Wall Street, about this recession we are in, and about issues that will change the regulations in a sensible way that will avoid as many future recessions as possible and, at the same time, about creating an environment in which we can grow the largest number of good new jobs. But suddenly, we have this new Washington agency not only possibly regulating Main Street lending but creating an unaccountable person at the top to write the rules and the regulations. When I say ''unaccountable,'' that means she or he is just over here at the Fed. Once confirmed by the Senate, this person has no boss. This person doesn't report to the President, doesn't have to come before Congress for appropriations, and has a steady stream of money and really unlimited authority. There is nothing to keep this new czarina or czar from writing the kinds of regulations and rules that got us into trouble in the first place with housing. Nothing to keep this person from writing rules that might encourage irresponsible home ownership. That is what we had before. So the Dodd bill might encourage irresponsible borrowing.

So the second major idea in the Republican amendment is, let's make this person accountable. The President appoints a Director who is confirmed by the Senate, but this person would be in the Federal Deposit Insurance Corporation. This Director would be accountable to other people appointed by the President and confirmed by the Senate and would have to come before the Congress multiple times annually to give us a chance to inquire about things.

I have come to the floor today to say we made an important step in the right direction when we worked on the first part of this bill yesterday across party lines. We addressed one of the five issues we need to deal with.

The issue of, what to do with banks that are too big to fail and get the rest of us into trouble, has been addressed.

But we have four more big issues to deal with here and other smaller issues. Two of the big issues are addressed in this Republican amendment. One is: let's not take over Main Street lending and make it harder to loan money, harder to get money, and harder to create jobs.

No. 2 is: let's not create another czar in Washington. The last thing we need is another Washington takeover and another Washington czar.

We hope our amendment will attract significant bipartisan support, and then we can move on to the other important questions in this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, first, let me thank Senator DODD for bringing forward a strong bill to regulate Wall Street. The bill provides for strict new regulations to stop Wall Street's reckless gambling.

I think one needs to understand the current system and how we got to where we are today. We have eight Federal regulatory entities that oversee the financial sector. Their authority is different, their powers are different, their ability to respond to a particular problem is different, and the entity that is regulated today can shop for the regulator they want by what they call themselves and the types of activities they try to define themselves as. They can shop and look for the regulatory entity they believe they can circumvent the easiest. They can escape and did escape proper supervision.

Well, this legislation ends that practice by a clear regulatory framework in order to regulate all financial institutions. The regulatory entity that does the regulation is based upon size and jurisdiction. And we have the Financial Stability Oversight Board that provides uniformity. No more gaps in the regulatory system. And it provides the tools for the regulators for early intervention. That means we end, once and for all, too big to fail. By early intervention on takeovers, closing down financial institutions, requiring the sale of financial institutions, we can prevent the need for too big to fail. The risk will be on the investors, not on the taxpayers of this country. The Boxer amendment makes that clear.

Tools that are needed for orderly liquidation to minimize the impact on the financial sector and our economy are provided in this legislation.

It recognizes the need for special attention to our community financial institutions. They were not the cause of the financial crisis we went through. We know it came from Wall Street. Our community banks were very much vulnerable as a result of the financial collapse. We need to streamline the regulatory process as it relates to our community banks. Regulation is cost. We have to have regulation. We need regulation. They need regulation. But we need to make sure it is sensible. This bill streamlines the regulatory structure as it relates to our local financial institutions.

We need strong and adequate regulation, and it provides it. We need to write a balance, and this legislation provides that. I might say, there are amendments we have already considered that I think were the right thing in order to make sure this balance is correct. I am sure there will be other amendments we will consider to make sure we get that balance right between adequate regulation and the cost of regulation to small community financial institutions.

This legislation puts the consumer first, as it should, with a strong consumer bureau. Some say: Why do we need that? Isn't the current regulation adequate? The answer is no. All you need to look to is what happened in the residential mortgage marketplace. All you need to look at are the advertisements that were taking place just 2 years ago for no-doc or stated-income loans or no-down-payment loans—loans that provided over 100 percent of the cost. And look at the subprime lending in each of our communities, where home buyers who could have qualified for traditional home mortgages were steered into the subprime market because the mortgage company or the seller made more money by steering them into subprime loans. Well, those practices have to come to an end. Those housing practices sparked, as we know, the trigger for this recession. These practices helped create that bubble that burst and the damage that was caused when it did burst.

We can take a look at the cost of this recession. The Pew Financial Reform Project estimated that just a slowdown in economic growth will cost every family in America close to $6,000. Well, that is money that will never be made up. We have to make sure it never happens again. The Federal spending, in order to prevent the economic collapse of Wall Street, is estimated to cost $2,000 per household. If you look at just the decline in real estate values, in 9 months, from July 2008 to March 2009, the wealth lost equaled about $30,000 per household in real estate and over $60,000 per household in the stock market. We lost millions of jobs. I could go on and on. We have an obligation to make sure our economy and our people are protected from that type of financial meltdown in the future.

This legislation properly regulates risky gambling by financial institutions by putting in place prohibitions and disclosures. It puts an end to derivatives markets that have no economic value to our economy. It requires disclosure on the derivatives markets, so we can take Justice Brandeis' advice and use sunlight as the best disinfectant. It provides for the Volcker rule, codifying that, by restricting certain types of high-risk financial activities by banks and bank holding companies.

This legislation regulates credit rating companies. We know credit rating companies—their rating will very much affect the price of a security and the viability of the security.

In this recession, many Marylanders and people from every State in this Nation have lost their homes, their jobs, and savings. We have a responsibility to act to end the reckless practices on Wall Street that helped plant the seeds for this recession. This legislation is a giant step forward.

AMENDMENT NO. 3732

Madam President, I will now speak briefly about an amendment I intend to offer.

I rise to urge the inclusion of amendment No. 3732 to S. 3217. This amendment is a critical part of the increased transparency and good governance we are striving to achieve in the financial industry.

This is a bipartisan amendment that would require all foreign and domestic companies registered with the U.S. Securities and Exchange Commission, the SEC, to report in their annual report to the SEC how much they pay each government for access to their oil, gas, and minerals. Most of the world's extractive industries companies would be covered by this law, setting a new international standard for transparency, for openness.

We have seen the devastating effects of a lack of transparency in this country, what happens when Wall Street is left unchecked and barons cloaked in secrecy make off with millions while others lose their homes. This is why we are addressing openness and transparency in the underlying legislation today. We would be remiss to create this sweeping reform of our financial sector without addressing the need for adding a new layer of transparency to a set of companies already under the SEC's jurisdiction—the oil, gas, and mining companies that make up the extractive industries.

This amendment would create an environment of transparency to reassure investors, help stabilize global energy markets, and thus support goals of energy security.

Current Federal Accounting Standards Board standards require reports of tax, royalty, and bonus payments to host governments, but the numbers need only be reported in aggregated categories, such as ''production costs excluding taxes'' and ''taxes other than income.'' These payments are reported on a country level where a company's operations are very substantial, but otherwise they are reported on such a broad basis that a company can simply report on which continent it was operating. Such disclosure is not useful in determining the extent of a company's operations in or its ongoing financial arrangements with a country.

In terms of energy security, the oil, gas, and mining revenues are critically important economic sectors in about 60 developing and transition countries which are paradoxically home to more than two-thirds of the world's poorest people. Despite receiving billions of dollars per year from extractive revenue, these countries rank among the lowest in the world on poverty, economic growth, authoritarian governance, conflict, and political instability. Unaccountable management of natural resource revenues by foreign governments leads to corruption and mismanagement, which in turn creates unstable and high-cost operating environments for multinational companies and threatens the security of the energy supply of the United States and other industrialized nations. So we are talking about in these countries where mineral wealth becomes a mineral curse. It becomes a source of revenue for corruption rather that a source of revenue for economic growth so a country can grow. It runs counter to our foreign policy objectives of good governance and economic growth for the developing world. Transparency will help make sure the mineral wealth goes to the people of that nation.

The provisions of this amendment would apply to all oil, gas, and mining companies required to file periodic reports with the SEC; namely, 90 percent of the major internationally operating oil companies and 8 out of the 10 largest mining companies in the world—only 2 of which are U.S. companies. We are talking about foreign-owned companies, not U.S. companies, by and large. Of the top 50 largest oil and gas companies by proven oil reserves, 20 are national oil companies that do not usually operate internationally. These companies are not registered with the SEC or any other exchange and only operate within their own country, which means these national oil companies do not compete with internationally operating companies. Of the remaining 30 companies that do operate internationally, 27 would be covered by this legislation—27 of the 30. These include Canadian, European, Russian, Chinese, Brazilian, and other international companies.

We currently have a voluntary international standard to promote transparency. A number of countries and companies have joined the Extractive Industries Transparency Initiative, the EITI, an excellent initiative that has made tremendous strides in changing the culture of secrecy that surrounds the extractive industries. But too many countries and companies remain outside this voluntary system.

The notion of transparency has been endorsed by the G8, the IMF, the World Bank, and a number of regional development banks. It is clear to the financial leaders of the world that transparency in natural resources development is key to holding government leaders accountable to the needs of their citizens and not just building up their personal offshore bank accounts.

It is now time to create in law an international standard for transparency. It will only happen if the United States is in the leadership. The international community looks to us to be a leader on this issue.

Investors need to be able to assess the risks of their investments. Investors need to know where, in what amount, and on what terms their money is being spent in what are often very high-risk operating environments. These environments are often poor developing countries that may be politically unstable, have lots of corruption, and have a history of civil unrest. The investor has a right to know about the payments. Secrecy of payments carries real bottom-line risks for investors.

Creating a reporting requirement with the SEC will capture a larger portion of the international extractive industries corporations than any other single mechanism, thereby setting a global standard for transparency and promoting a level playing field.

Investors should be able to know how much money is being invested up front in oil, gas, and mining projects. For example, oil companies often pay very large signature payments to secure the rights for an oilfield, long before the first drop of oil is produced. Such payments are in addition to the capital investment required. In Angola, for example, $500 million is not an unusual signature bonus that has to be paid for a single field, and a single field can cost more than $2 billion to develop. Such costs take years for companies to recoup through their production-sharing arrangements with host companies. For this reason, it is in the interest of the investors to know the amount and timing of payments of high-risk operating environments.

When a company they have invested in becomes targeted by a campaign of misinformation, only the transparency of their financial information will help the investor. Disclosure of payments is one way to address risk, helping companies protect themselves from false or unfair accusations and blame-shifting by host governments that can tarnish their image in the investor community and the general public.

I urge my colleagues to join me in supporting the creation of a historic transparency standard that will pierce the veil of secrecy that fosters so much corruption and instability in resource-rich countries around the world.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Missouri is recognized.

Mr. BOND. Mr. President, Americans have sent Congress a message: Reform Wall Street, hold the bad actors accountable, but do not hurt the folks on Main Street who had nothing to do with the financial crisis. That is what we are debating about here in the Senate this week.

Senators on both sides of the aisle agree on one thing: All of us want to hold Wall Street accountable for the havoc wreaked on Main Street. We all agree we need to enact reform to prevent another financial crisis. But we have some disagreements on what responsible reform looks like.

While we all agree on the need to reform Wall Street to protect Main Street, the current bill, even with amendments so far, does not, in my view, do the trick. We are making progress, but there is still a lot of work to do because, in its current form, the bill is still a massive government overreach, punishing Main Street, hurting families, and costing jobs by stifling small business and entrepreneurs.

Today, I will highlight some of the concerns I have heard from Main Streets in Missouri and elsewhere and some of the amendments that have been filed to improve the bill.

First, on the GSEs, none of us can deny that Fannie Mae and Freddie Mac were significant contributors to the financial crisis. Just like any real reform, to prevent a future financial crisis, we have to deal with Wall Street, and we must also deal with Fannie Mae and Freddie Mac. Unfortunately, this bill totally ignores it. It turns a blind eye to these government-sponsored enterprises, these GSEs which contributed to the financial meltdown by buying high-risk loans banks were directed to make to people who could not afford them.

The irresponsible actions in the marketplace by Fannie and Freddie turned the American dream into the American nightmare for far too many families who faced foreclosure. They then devastated entire neighborhoods with the foreclosed homes and communities where property values diminished. Ultimately, it led to a national and international financial crisis. No one—especially those of us who are taxpayers—can forget what happened after Fannie and Freddie got done wreaking havoc on families and neighborhoods. They went belly up. That is right. Over a year and a half ago, the government had to take over the GSEs, leaving taxpayers to foot the bill.

To make matters worse, I am sure everybody read with shock just yesterday when the press reported that Freddie lost $8 billion in the first quarter. That is a lot of work. Then they had the nerve to request another $10.6 billion from the American taxpayers and warned that this $10.6 billion is just a downpayment on the money they will need in the future. Is it time to call a halt? Is it time to get a handle on it? It is well past time.

In case my colleagues need a reminder, this latest $8 billion Freddie lost is on top of the $126.9 billion Fannie and Freddie had already lost through the end of 2009. The Wall Street Journal today hit the nail on the head when they referred to Fannie and Freddie as the ‘‘toxic twins.’’ These toxic twins are far and away the biggest losers in the entire financial crisis—bigger than AIG, Citigroup, and all the rest.

So when we focus our anger, let’s not forget our friends at Fannie and Freddie. You talk about doing some damage. Here is where the damage is. Here is where the burden comes, not just on us but on the credit cards of our children and grandchildren, the young people here as pages. They don’t realize how heavy a debt burden we have already put in their wallets. Sorry about that, folks, but you and your generation and generations to come are going to be paying for it.

Taxpayers now and taxpayers in the future will be the biggest losers, since according to the Congressional Budget Office’s optimistic estimates, these toxic twins will cost the taxpayers close to $380 billion. Even for those of us in Washington, $380 billion is a big number.

After all this pain to families, neighborhoods, and taxpayers, one would think the oversight of Fannie and Freddie would be a top priority, which is why it is stunning to me that the Obama administration has only recently nominated someone to fill the critically important position of inspector general of the Federal Housing Finance Agency to oversee the GSEs. How can we have proper and effective oversight of Fannie and Freddie when the office has been vacant at the highest level for so long?

The bottom line is, responsible reform must address Fannie Mae and Freddie Mac. Responsible reform would put an end to the taxpayer-funded bailout of Fannie and Freddie and refocus them on affordable housing. Senators MCCAIN, SHELBY, and GREGG have filed an amendment to protect taxpayers and put an end to the government bailout of Fannie and Freddie. In short, this amendment cuts up the Federal credit card by putting an end to the limitless line of credit Fannie and Freddie currently enjoy, compliments of us as taxpayers.

This amendment puts an end to the conservatorship and requires each to operate eventually without government subsidies and on a level playing field with the private sector.

Next of great importance is seed capital. It is critical in reforming Wall Street that we not punish Main Street and the very specific small business startups that are so critical to job creation. If there is one thing we are worrying about it is, Where are the jobs? Well, I will tell my colleagues where the jobs are. They are the jobs the entrepreneurs and the innovators and the inventors can start. Unfortunately, in the current form of this bill, there are provisions that will kill the business startups. While title IX of the Dodd bill has been little talked about—far too little, in my opinion—it could have devastating consequences. Specifically, this provision would kill small business startups by delaying and eliminating the availability of private investor seed capital, and that is essential for these startups to survive and grow.

According to new regulations by the SEC, innovators and entrepreneurs would be subject to registering with the SEC for a 4-month review; thus, tying up vital venture capital needed for immediate use by new business. This could cripple new businesses.

Next, the bill proposes to add a further requirement to raise the net worth threshold on those who can invest to $2.3 million and raise the annual household income to $450,000. This would disqualify two-thirds of current accredited investors, according to the Angel Capital Association.

Small businesses and startup companies are the backbone of our country. They are where we are looking to get the new jobs of the future, and a critical role is played by angel investors in creating and developing new companies, small or large.

I will confess, this is of particular concern to my State of Missouri, where I have been working for a long time to build an agricultural biotech corridor across the State. In Missouri, we have the research institutions, the scientific leaders, and advanced agricultural research and biotechnology. Research in the biotech industry is our best hope for a stimulus to create high-paying, skilled jobs in rural as well as urban Missouri and, I would say, across America.

The stimulus these biotech and research companies are spurring in Missouri is also happening today across the Nation. According to the Kauffman Foundation, between 1980 and 2005, companies less than 5 years old accounted for all—all—the net job growth in the United States. As a matter of fact, that same study showed that in 2008, angel investors provided roughly $19 billion to help start up more than 55,000 companies. Why would we want to limit that? The bill, if enacted, would deny immediate access to the capital and, if enacted, would say to these innovators and entrepreneurs: You are too small to succeed, too small to survive—not too big to fail.

But there is good news here, and there is a bipartisan solution in the works. I am very thankful and grateful to Senator DODD, who has agreed to work with me to fix the problem. We both want to protect these small business startups that are vital to job creation across the country. I think we are close to an agreement to fix this, and we hope to have a bipartisan amendment soon. I urge all my colleagues to take a look at it and to join us in supporting it.

Next and finally for today, one of the biggest problems in the bill—which I believe will undoubtedly hurt ordinary Americans who had no role in causing the financial crisis—is the creation of the so-called Consumer Financial Protection Bureau, CFPB. Those initials could, in the future, scare people more than all the combined deadly 10 acronyms, including the IRS, EPA, and SEC. This new massive supergovernment bureaucracy would have unprecedented authority to impose expensive mandates on any entities that extend credit. We are not talking about Goldman Sachs or big Wall Street banks. Instead, this new superbureaucracy could hit hard the community banker, farm lender, local dentist or auto dealer. The pain on Main Street will not just be borne by small business, but the costs will be passed on to consumers, the ordinary Americans the bill seeks to protect. It might even cost them their jobs.

The National Federation of Independent Business, a strong voice for small business, stated their concern clearly when they said:

> These small businesses had nothing to do with the Wall Street meltdown and should not be faced with onerous, new, and duplicative regulations because of a problem they did not cause. Further, as the most recent NFIB Small Business Economic Trends survey shows, small businesses continue to struggle with lost sales, and such regulations could make these problems worse, stifling any potential small business recovery.

That is why I have joined with Senators MCCONNELL, SHELBY, GREGG, and others on an amendment to fix the problem. Instead of creating a brandnew superbureaucracy with unlimited authority and reach, our amendment would empower the FDIC to look out for consumers. This makes sense. The FDIC is the one that has a strong record of providing consumer protections. It has a record of being able to deal with financial institutions. It deals with the financial institutions that get into problems. It is in the banks. Any institution that is regulated by the FDIC, they are in there looking over their shoulder.

Our amendment would create a division of consumer financial protection within the FDIC so they can protect consumers without adding burdensome and duplicative regulations. It would avoid costs being passed on to consumers, the very folks we are trying to protect, not saddle them with new costs. The amendment will ensure that the consumer protection division focuses on the real problems currently operating under the radar—the shadow banking I call it—or, as I like to say, the clicks, not the bricks. These are the people who have preyed on vulnerable Americans.

Before the financial crisis that was brought on by bad loans, especially too-good-to-be-true home loans pushed on families who could not afford the loans, my fax and inbox were cluttered, despite my best spam filters, with 1 percent or no down payment loan offers. These offers were not regulated effectively by State regulators, the SEC, the Federal Reserve or the OCC. They succeeded in escaping effective regulation entirely, although some have later fallen to regulation by U.S. attorneys who filed criminal fraud suits a little bit too late in the game.

Also, it is important this new division be tasked with providing financial literacy, as I will continue to stress. We have to improve consumer education in any and all areas where loans are made. While foreclosure counseling is important—another bipartisan program on which I worked with Senator DODD in December of 2007 and in which we put $180 million to reach out to financial counseling groups. They are doing a good job trying to help counsel families in danger of losing their home and ways to solve the problem. Those counselors came back to us unanimously and pleaded with us to make available preloan counseling before somebody buys a home, to make sure they understand the terms and can afford to service the loans.

These are just some of the things we need to do.

Missourians and people across America are angry. They are angry bad actors caused the financial crisis that left many of them with a pink slip instead of a paycheck. They are angry Wall Street bad actors left them with a nightmare of foreclosure instead of the American dream of home ownership. They are angry government has committed trillions of taxpayer dollars for rescuing the financial industry when so many of them are still struggling to pay bills. Is it any surprise that Missourians and Americans across the country are skeptical about financial reform?

These folks were made more skeptical when they heard and saw on TV and read in the paper that it is the actors on Wall Street, with whom the bill was supposed to deal and who caused the financial crisis, who are now cheerleading this bill. Missourians ask me how this bill can be real reform when the head of the investment bank Goldman Sachs, who is supporting the bill, said—let me make sure you understand. This is from the head of the largest investment bank on Wall Street: ''The biggest beneficiary of reform is Wall Street itself.''

That is a quote about the original bill.

Missourians have asked me not to pass a bill that will bail out Wall Street. We need to take care of Main Street. There is no bailout for struggling families. We don't want anymore Wall Street bailouts. We need to pass a bill that reforms Wall Street and protects Main Street. I believe we have an opportunity to pass real, responsible, and bipartisan reform, if Senators of both parties will listen to the concerns raised by ordinary Americans who didn't cause but are paying for the financial crisis.

I have heard similar concerns discussed by speakers on the other side of the aisle who seem to indicate we share the same concerns. I hope we can work together to get a good, strong reform bill that will deal with the problems that caused the last financial crisis, protect consumers, and ensure the safety and soundness of all financial institutions and not subject them to special interests who may have pushed for the bad loans that caused the last crisis.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, what is the pending business, or the order?

The PRESIDING OFFICER. Amendment No. 3826, offered by Senator SHELBY, is the pending business.

Mrs. BOXER. Mr. President, I want to take some time to speak out against the Shelby amendment and urge that it be defeated. If that is appropriate at this time, I will use as much time as I may consume.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, this is a pivotal point in the debate on Wall Street reform. We never want to see what happened to this country happen again, where they essentially crashed the stock market. People had been talked into very difficult to understand and exotic subprime mortgages. We had such greed running rampant on Wall Street, and instruments were created that were even difficult for the Secretary of the Treasury to explain—derivatives that were so complex they were in about the third order.

If we were to adopt the Shelby amendment, we would weaken this bill. As a matter of fact, we will weaken current law, and not only will consumers be hurt but they will actually lose ground—when the purpose of the Dodd bill—our bill—is to elevate consumers, give them protection from these kinds of schemes that brought our economy to its knees and resulted in 700,000 jobs a month being lost then, and the wealth of the average American, who had even a 401(k), was down 20, 30, 40, and maybe 50 percent and, as a result of that, the lack of consumer confidence that followed.

We know our economy is based on consumer confidence. Seventy percent of our economy is attached to consumer spending. When people see the stock market and their wealth going down, and see neighbors losing their homes and jobs, they feel threatened and they pull back, and rightly so. It started from deregulation on steroids on Wall Street, where the regulators didn't even use the powers they had to protect consumers. An essential part of this bill is putting a cop on the beat for consumers, finally. So whether you are a consumer of credit cards, or a consumer in terms of the housing market, or a consumer in terms of the stock market or the commodities market, you are finally going to have a watchdog.

We know the regulators didn't care about consumers. We know that. We know, for example, that the Fed had the authority to intervene in the housing market, if they felt these subprime loans were wrong, and stop them. They didn't do it. We know the SEC was warned about Madoff. There were whistleblowers to that Ponzi scheme, and many more Ponzi schemes were going on. They didn't even follow the lead.

We need to have a strong, independent consumer agency that says to the regulators: You are not doing your job. We are going to make sure you do it.

That is what is in the bill before us. But the Shelby amendment takes us back. The new Consumer Financial Protection Bureau will enforce existing consumer protection laws—those same laws that went unenforced by current regulators. I gave you the example of the SEC and the Ponzi schemes, and of the Fed overlooking the mortgage crisis, and there are many others. It would also ensure clear disclosure to consumers of all the terms and conditions of the financial products they buy.

Believe me, you would have to have a degree in economics and finance and everything else to understand some of the fine print in a credit card bill. People are stunned to know they are paying 20, 30-percent interest rates on their credit cards, because there is no clear way of knowing.

In this bill, that is over. You have to know the terms and conditions of the financial products you buy. This bill will bring protections to home buyers from the kinds of exotic mortgages that led to the current crisis.

Let me give you an example. People were offered mortgages at a teaser rate—a very low rate—and were not being told in clear terms that in a couple of years that teaser rate would go up and go up and go up.

I have to say, some in the mortgage business were paid more commissions to put unsuspecting consumers into these exotic mortgages. So they pushed those mortgages. That is wrong. We need a consumer protection agency that notes it is wrong and puts a stop to it.

We have a situation that weakens the current law. If you think that is right, if you think, for example, that consumers caused the Wall Street meltdown—I think you are living on another planet—vote for this amendment. We know who caused this crisis. We know the greed on Wall Street. We know even while these companies were getting bailed out, they were paying their people huge bonuses. The word ''outrageous'' really can be defined by what these people did.

If my colleagues want more of the same—I cannot understand why they would—but if they want more of the same, if they do not want to strengthen consumer protection, then vote for the Shelby amendment.

Let's be clear. This amendment is a gutting amendment. Instead of creating an independent consumer watchdog, the Shelby amendment creates a weak sister, a weak division of the consumer protection in the FDIC. This new idea of Senator SHELBY's, this new division of consumer protection, would no longer be independent. It would be under the FDIC. It would not have any authority to adopt any rule without the approval of the same bank regulators who have routinely ignored or opposed the needs of consumers.

Let me repeat that. The weak consumer protection agency created in the Shelby amendment would have no authority to adopt any rule without the approval of the same bank regulators who have routinely ignored or opposed the needs of consumers. It even would give bank regulators a veto over consumer protection regulations. That is totally unacceptable.

If my colleagues are for Wall Street reform, they have to vote no on the Shelby amendment. This is the moment of truth. Either my colleagues are going to stand with the people of this country who are innocent victims of greed on Wall Street or they are not. If they want to stand for the greed on Wall Street, if they want to stand for no protection for consumers, a weakening of the protections they already have, which are far too weak, vote for this amendment, and let's go forward with a Dodd bill which has a strong independent consumer protection agency.

I would add that the Shelby amendment would burden the new consumer protection division that he has in his amendment with incredible procedural hurdles—hurdles that have effectively prevented the FTC, that has similar rules, from writing any new rules protecting consumers since 1984.

Mr. President, 1984 was an interesting year for me. It was a long time ago. I was a lot younger. It was before my hair turned blond. In that year, I was in the House of Representatives, and I was pushing the Federal Trade Commission to help consumers. They had too many hurdles. They have not done anything in all those years. Yet this is the template that Senator SHELBY is using for this watered-down consumer protection division.

I see Senator MERKLEY on the floor, and I am going to yield in a minute. He is such a leader on all these issues and such a great populist leader in this Senate.

Maybe my colleagues who support this amendment think the regulators who allowed all of these abuses to happen under their watch, despite repeated warnings, did a fine job and are the best protectors of consumers.

But even if those regulators have somehow had a change of heart and are determined to change their ways, this amendment would leave them with even fewer powers to protect consumers than exist under the current system..

The Shelby amendment would burden the new Consumer Protection Division with the same incredible procedural hurdles that face the Federal Trade Commission—hurdles that have effectively prevented the FTC from writing any rules in the consumer finance area since 1984.

In addition, the amendment would actually prohibit the proposed consumer division from doing any rulewriting under the FTC Act for payday lenders, debt collectors, foreclosure scam operators, mortgage brokers and other nonbank consumer finance companies.

If the new division did somehow manage to get new rules written, the amendment would make sure that they could not be enforced.

Under this amendment, the new weakened consumer division could do examinations of some finance companies only after consumers have been harmed repeatedly.

This after-the-fact authority closes the barn door after the horse is out, and handcuffs regulators from protecting consumers until the harm is already done.

Some of my colleagues want us to believe that the Consumer Financial Protection Bureau that we have proposed in our Wall Street reform bill would harm small businesses.

Nothing could be further from the truth.

Merchants, retailers, and sellers of nonfinancial goods are specifically excluded from the oversight of our proposed new Consumer Financial Protection Bureau.

This includes retailers who provide ordinary credit to their customers to buy their goods.

Even for small businesses that do sell financial products—including community banks and all kinds of small lenders—the Consumer Financial Protection Bureau will have no direct enforcement authority. Enforcement of rules will be handled by the current regulator or State attorneys general.

I will give one more example I think is very important. I told you the template for Senator SHELBY's new consumer protection agency is the FTC. I told you under those rules, the FTC has not done anything since 1984. Let's say they were able to get new rules written. Let's say they were able to do that. Senator SHELBY ensures that the rules they write could never be enforced.

How does he do that? Because he says the only time the weakened consumer division could do any examinations of some financial companies would be after consumers have been harmed repeatedly. This is after-the-fact authority. I have seen too many people crying because of what happened on Wall Street. I have seen too many people crying because they lost their jobs because of what happened on Wall Street. I have seen pictures in the paper of Americans crying because of what Bernie Madoff did to them and their children.

I want this stopped. I do not want it stopped after the fact. Yes, thank goodness Bernie Madoff is in prison where he belongs. But it is very difficult to make the people whole who were harmed by that Ponzi scheme.

We do not want after-the-fact authority; we want before-the-fact authority. We want this consumer protection agency to be on its toes, to intervene, to see if there is a scam going on; to see if there is a credit card scam that leads to 30, 40, 50 percent interest rates; to see if there is a scam on mortgages where people unknowingly walk into a mortgage where the rate goes up to 12 percent.

At the end of the day, we know consumers were hurt hard by Ponzi schemes, by markets in the dark, confusing mortgage options, some bordering on fraud by credit card scams and worse.

Let's take a stand in a bipartisan way and vote no on this amendment and support the consumer protection agency, the strong one that is in this bill. I can tell my colleagues, if we do that, the American people can take a deep breath and know that they will be protected.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. MERKLEY. Mr. President, I applaud my colleague from California who has been an extraordinary champion of consumers throughout her career. She understands that the basis of a successful nation is successful families. That depends on them having a strong financial foundation. We should not measure the success of our country by the million-dollar bonuses or the billion-dollar quarterly profits on Wall Street. We should measure it by the success of our families.

This bill is absolutely essential to restoring those financial foundations; whereas this amendment before us does the opposite. The Shelby amendment No. 3826 carves the heart out of this bill. This dog don't hunt. In fact, this dog doesn't bite. I don't even think this dog barks. For that matter, I am not so sure it is a dog. That is how bad the Shelby amendment is.

The background is this: Predatory mortgages and securitization of those mortgages on Wall Street built a house-of-cards economy that came falling down last year. The predatory mortgages were done at the retail level, but the securitization and selling of those packages occurred on Wall Street. They built investments that were taken in by every major financial house practically in the world, and those investments, those securities had a 2-year fuse on them, essentially a 2-year teaser rate on every underlying mortgage.

At the end of the 2 years, interest rates doubled, families could not make the payments, securities went bad, and we had financial firms one after another collapse. We had Lehman collapsing. We had Bear Stearns collapsing. We had Merrill Lynch collapsing. We had major problems at Bank of America needing a bailout, a $4 billion TARP bailout. We had Citibank collapsing. We had Washington Mutual collapsing—all built on predatory mortgage practices, every single piece. That is why consumer protection is so important. That is why it is at the very heart of this bill. And that is why we need a Federal consumer protection agency.

I have friends back in Oregon who write to me, citizens back in Oregon, constituents who will say: Here is what went on, and how can that be fair? Let me just give an example.

A woman from Salem wrote to me and said: I always pay my credit card on time, always have for years and years. But I got my credit card statement, and it had a late fee. So I called up the credit card company, and I said: How is it possible? I always mail my payment on this day. It should have had plenty of time to get there.

The credit card company said: Yes, as a matter of fact, your payment did come on time. But you know, Madam, we are not required to post your payment on the day we receive it. In fact, in the contract we have, we can sit on your payment for 10 days and then post it, and then your payment is late and we get to charge you this fee. We are just following the rules.

She said: How can that be fair?

It is not fair. Everyone knows it is not fair. Let me give another example.

Citizens wrote saying: Hey, I had a whole series of transactions with my bank, and then the bank changed the order of those transactions to put the biggest transaction first. It so happened that biggest transaction made me $10 over the funds I had in the bank. I had an overdraft. By putting that big transaction first, it meant instead of one overdraft fee, I have 10 overdraft fees. Instead of only $35 for one overdraft, I owe $350 for an overdraft series. How can it be fair that the order of the transactions was changed in order to multiply the fees I owe tenfold?

Everyone knows that is not fair. Everyone knows it. We simply need to have an agency that is able to say that is not OK. We do not want to have a process where something that is unfair goes on for 10 years or 15 years or 20 years before there is legislation to address it.

You cannot address a consumer product's choking hazard by doing it in legislation. You have to empower an agency to say: No, that part is too small. You cannot address lead paint by doing legislation every time something is painted. No, you have to have an agency that says they will test that paint and say lead paint is not OK.

It is the same with consumer financial products. We need the same power to fix traps and tricks in real time for fairness to America's families so they can rebuild their financial foundations because that is what a strong country is, families with strong financial foundations, not million-dollar bonuses, not billion-dollar quarterly profits based on stripping funds from working Americans. It all comes down to the heart of it: fairness in consumer financial documents.

Let's take a look at amendment No. 3826 and why it carves the heart out of this important bill for America's families, America's Main Street families and businesses.

Here is what it does: First, it says virtually no one is covered. Let's look at the list. What is covered under the language of the amendment are large nonbank mortgage originators. Large nonbank mortgage originators do not exist anymore. So it covers firms that do not exist anymore. It is kind of like saying we are going to have the regulation of safety on cars, but it is only for cars that are powered by gasoline and were built before 1850. No such cars exist. All the other cars, the ones actually on the road, we are not going to cover them.

We have a list. We have commercial banks, not covered; investment banks, not covered; credit card companies, not covered; car lenders, not covered; payday lenders, not covered; nonbanks that sell financial products of a whole sort, not covered.

I think you get the picture that this amendment is meant to make sure nothing is covered. Then, just in case there is some little piece that does get covered, it says: You know what. This agency is not independent. It cannot write rules. It has to have everything it does approved by the financial world—the financial world that brought us all these problems, that brought us to tricks and traps, that stripped wealth from working Americans. They are going to decide what is covered.

I echo my constituent from Salem and say: Where is the fairness in that?

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

Mr. MERKLEY. Certainly.

Mr. DURBIN. Let me ask the Senator: As I understand the amendment of the Republican Senator, it goes back to the old days when there was virtually no consumer financial protection. The bill we have before us here—that Senator DODD and the Banking Committee brought forward—has the strongest consumer financial protection law in the history of the United States. It has an agency with independent authority to protect Americans, but more importantly to empower Americans to make the right decisions when they are taking out a mortgage, a loan for a car, a home loan or a student loan. What the Republicans are suggesting in the Shelby amendment is to go back to the old days when there was no protection, there was no authority.

The argument is made about the fact that when it comes to mortgages, they weren't the problem, the problems were with Wall Street. But at the heart of the issue on Wall Street was the mortgage being signed by the family in Springfield, IL, and Portland, OR. So I ask the Senator: In your State, in your experience, as you look at this, if the Republicans have their way and move us back to the old days when it comes to this consumer empowerment, consumer protection, don't we run the risk of falling into another economic crisis, losing millions more jobs across America? Isn't that the risk we run if we go the route suggested by the Republican amendment?

Mr. MERKLEY. My colleague is absolutely right. Because predatory mortgage practices were at the heart of this crisis that led to securities that blew up the economy and led to the loss of millions of jobs around our Nation, with an unemployment rate in my State that has been over 12 percent. We not only have the risk of going back there, we are perhaps more at risk because we have fewer larger banks. Many investment houses that were independent are now inside those banks, in a position where, if they blow up, they will blow up the banks as well.

So unless we have this strong consumer financial protection agency, it is like taking this bill before us and sticking it in the shredder, and with it shredding the hopes and aspirations of America's working families to build strong finances in the future.

Mr. DURBIN. If the Senator will yield for another question.

Mr. MERKLEY. Yes.

Mr. DURBIN. Is it not true that last week, on three different occasions, the Republicans filibustered this bill to stop us from even starting the debate on this bill, and it was only when we reached the point after the Goldman Sachs hearing—when there was this embarrassing testimony from executives, telling America what they were up to, and it all became very public—that the Republicans finally backed off their filibuster, backed off their delay of this legislation and let us come forward to debate; and that now, one of the first amendments they offer is to weaken this bill so the financial institutions and the banks are going to have more power over the economy, more power over consumers than this bill provides?

Isn't that the real history of how we got to this moment in this debate?

Mr. MERKLEY. My friend and colleague is absolutely correct; that, indeed, my colleagues across the aisle, the Republicans, voted three times to say they did not want to proceed to the bill, where their ideas would bear public scrutiny. Instead, they wanted to talk behind closed doors. You know what they were looking to do was not to strengthen this bill.

Now that the amendment has come out and been placed before us publicly, we do see that it does what we feared. It is designed to take a knife and carve the heart out of this financial reform.

Mr. DURBIN. I would ask the Senator from Oregon if he would yield for one last question.

Now that we have been through this experience where we have lost $17 trillion in American value in this economy—$17 trillion accounted for in the savings accounts of ordinary Americans in Illinois and Oregon, $17 trillion in businesses that failed and jobs that were lost—isn't it critically important that this bill from the Senate Banking Committee move forward, and that each amendment take this strong bill and make it stronger, instead of the Republican amendments, which clearly are designed to weaken this amendment and to open us up to the vulnerability of facing more job loss and more economic crisis?

Mr. MERKLEY. Well, my colleague is absolutely correct. The failure of financial rules has become so obvious and had such devastating impact for our families—as my colleague put it, $17 trillion worth of damage. That means families lost their retirements, families lost their savings for their children to go to college, and it means families have houses under water, if they are lucky. For many families, it means the loss of a job, the loss of income, and the inability to make those mortgage payments, which means they are in foreclosure and have lost their dream at every single level. That is the damage $17 trillion did to our families, and that is why every amendment to the bill we have before us should seek to say: Here is the bill and here is how we should make it stronger.

With that, Mr. President, I yield the floor.

Mr. DODD. If my colleague would yield quickly, I appreciate everyone wanting to make my bill stronger. We have a pretty good bill here, but every bill could use a little improvement, I admit.

I want to compliment the Senator from Oregon, a member of the Banking Committee. He has been a very valued member of the committee. I mentioned earlier—I say to the majority whip—in the committee meetings we have had, it is by seniority, and so I have this cluster of new members down at the end of that committee table. The Senator from Illinois and I have been in that position at those tables over the years. But Senator TESTER, Senator MERKLEY, and Senator BENNET kind of occupy those last three seats on the Banking Committee.

I say that with great respect to all the rest around the committee. Those three new members on the committee have added tremendous value to our debates, and in particular, the Senator from Oregon has been wonderful in his concern about mortgages, prepayment penalties, what has happened to the 7 million foreclosures in our country, the 8½ million jobs that got lost in our Nation, why we need to address this issue, and why it is so critically important.

I want to make one more point about this Shelby amendment that may be lost on our colleagues, and that is in our bill there is no assessment on a nonbank or a bank, but there are assessments in this amendment. We just went through the Tester-Hutchison amendment to actually lower the assessments on community banks. What a great irony that the next amendment—there will be those having supported the earlier amendment to reduce cost—sets assessments. In fact, it asks community banks to have assessments on the nonbanks out there in order to pay for their consumer bureau within the FDIC.

So for those who are concerned about the burdens on community banks—and I think it is a legitimate concern, one I think the Hutchison-Tester amendment did a great deal to alleviate—we are going to turn right around on these institutions that are struggling to stay alive to serve their communities and add a financial burden to them. So for all those reasons the Senator from Oregon mentioned, plus that one, the Shelby amendment deserves to be defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I want to point out that you have just seen an example of why there isn't bipartisanship in this Chamber. You cannot denigrate the other party and denigrate every single thing they put up as an amendment and suggest there is going to be bipartisanship. The amendment that is before you is an attempt to correct some of the things that are in the bill.

The filibuster was mentioned. Well, the filibuster bought enough time that Senator DODD and Senator SHELBY were able to work out the agreement for the amendment that has passed—a major amendment, a major change, a wanted change, an expected change, and a change that makes the bill far better. If every amendment the Republicans bring up is going to get the kind of treatment this amendment is getting and not looking for that piece in there that might make a difference, we are not going to have much success on this bill.

I heard the other side mention Goldman Sachs. Goldman Sachs said they like this bill; one of the offenders, and they like it. That encourages me that it is a good bill.

I appreciate the Senator from Oregon giving the examples of some things that are terrible in our economy—some of the credit card examples he gave. It absolutely shouldn't happen in America. I don't think this bill fixes it, and I will explain that in a few minutes.

If our amendment is too open-ended, the Democratic amendment raises the possibility of controlling every single thing for middle America—every single thing—and I will explain how that works. I don't think it was what was intended, and that is why we go through an amendment process, to clear up problems such as that.

But I am going to talk today about consumer financial protection. I want to be clear when I speak about this protection that I am talking about protecting consumers from bad actors. I am talking about educating consumers. When I talk about consumer protection, I am not separating consumer protection from the health of the economy. I rise today to talk about what is flawed in title X—called the Consumer Protection Title—of the financial reform bill, and to raise awareness about an alternative to the current language in title X.

I believe an alternative to this section is desperately needed because the Federal Government should not be involved in our daily lives and everyday decisions. Under the proposed consumer protection title, we would be opening the floodgates of government involvement. The Federal Government could be telling us how we can spend our money, how we save for the future by making decisions for us, and could truly limit financial markets to the point of economic decline. The Federal Government should not operate with the belief that it is protecting us from ourselves. However, that is where title X language begins to work.

From supporters of this bill, we have heard that in order for consumer protection to be truly effective it needs its own independent agency—or bureau now—and that this Consumer Financial Protection Bureau should be free from outside influence. Independence from outside influence is a fine goal, but our government was built on using a system of checks and balances and this bureau would be totally unchecked. It would have unprecedented power and authority to write its own rules—no review. It would have an uncontested budget—no appropriation. And decisions made by the bureau would be made without regard to the impact those rules would have on the health of our economy. Where is the transparency in this power? Where is the accountability of this proposal? I haven't even touched on what the title could do to consumers' personal information or financial decisions.

To achieve independence, this bureau would consolidate all financial protections and efforts from the various Federal Government agencies, all in the name of better protecting consumers. Don't get me wrong, there are issues needing to be addressed for consumer protection. But right now, each Federal agency acts as a check on its neighbor when it comes to consumer protection. My fear is that once this bureau has consolidated power, it will not stop at protecting consumers from fraud or deceptive practices. This agency would only be getting started.

I am deeply troubled about the creation of this bureau because it would place the bureau within the jurisdiction of the Federal Reserve. Too many of my constituents already believe the Federal Reserve gaining additional power is an alarming thought. However, what is most alarming to me is the fact the Federal Reserve would have little authority over this proposed bureau. Mostly, they provide the money.

Right now, as this bill is written, the Federal Reserve would be required—required—to give the bureau a designated 12 percent of their operating budget. The catch here is that Congress would have no budgetary authority and would not approve this money. And it is adjusted for inflation. If you are going to get a percentage of a budget, how do you adjust a percent for inflation? But aside from that, it is adjusted for inflation. It works up to be 12 percent of the operating budget of the Federal Reserve.

In addition, they can even invest any of the money they do not spend. You will find that on page 1,073. I know it is a huge book, so I didn't want you to have to look through the whole thing. On page 1,074, it even says these aren't government funds. You know why. That way it doesn't cost under the scoring. Even though it will drive up the deficit and the debt, it doesn't count that way. It looks like a free program, but that is not true. So they get to keep the money and invest what they do not spend—I don't know of another entity that gets that right—and it is not considered to be government funds. That provides a little latitude.

The bureau not only has an uncontested budget, but the bureau would be the single most powerful agency in the Federal Government. Not only could the bureau write their own rules for our States' businesses and local banks to follow, it would oversee consumer decisions, and the bureau would be the enforcer of their own rules. No other agency has that kind of unchecked power. Where is the accountability in this? Unchecked power doesn't lend itself to accountability either.

What is important is for the public, for the average American, to know this bill could protect people. But it could also go potentially 10 steps further and take some of their decisionmaking power and transfer it to the Federal Government. We don't do that in America.

For example, as the bill stands, it is so overreaching and ambiguous in areas that it could impact everyday purchases for most Americans. How would they do that? Under the rules they write that nobody takes a look at. There is nothing to hold this bureau in check.

Here is how the bureau would regulate consumer financial products or services, as well as service providers, sweeping thousands of already regulated small businesses into the bureau's purview. Then you add in section 1027 of the bill, and it could penalize anyone who buys or sells something on an installment plan or it could affect any local small business that offers some kind of monthly payment on credit. That is why we are being flooded right now with people who want to be exempted from this bill. They are worried about not being able to provide their service anymore.

Have you ever bought a car and paid for it over a few years with a financing plan from the dealer? Many of us probably have. This bill's language is so ambiguous and unclear that it looks like people who want to pay for a service on an installment plan or those who offer those plans will be penalized and regulated by the new consumer protection agency—I should say consumer protection superagency. Nobody has ever had this kind of power.

Small business owners, regular people off the streets and from our States have been streaming into the congressional offices, looking for these exemptions that I just talked about because of this title in this bill. As drafted, this title is so ambiguous, so far-reaching, that consumers and good actors are being swept up with the bad.

Anyone who ever paid for dental care in installments could, in the near future, be facing the prospect of paying for dental work upfront, as dentists realize they cannot afford to keep up with the new regulations, additional regulators or the cost of compliance with the bureau's demands.

For auto dealers, where financing is hardest to come by in rural towns in small America, this would, in fact, be a direct hit on their business. Right now the financial burdens of the bureau would also be borne by auto dealers that direct clients to available financing but don't originate or authorize car loans themselves. That is pretty far-reaching.

Additionally, though, if a consumer purchases something on an installment plan, whether the loan is for a bike, a minivan, braces, an engagement ring, livestock or a home, if there are more than four installments, the government, through the bureau, would have a say in approving that loan.

The bureau, also in the name of protecting us from ourselves, would require banks to keep and maintain records of all bank account activity and financial activity of their clients for at least 3 years, while also requiring this information be sent regularly to the bureau for safekeeping. I have serious concerns about our Government collecting information on the daily activities of our citizens and equal concerns about the Government approving or disapproving the financial choices of its citizens.

I have just outlined why the Consumer Financial Protection Bureau is bad for consumers, why it is bad for small businesses and our communities, and why it is bad for individual consumer choices and freedoms. I point out all these things to you because there is an alternative to this bureau that is being proposed by my colleagues from Kentucky, Alabama, and Tennessee. This alternative proposal addresses each of the concerns I have just raised about accountability, oversight, consumer protections, consumer education, and consumer rights. This new proposal keeps our current regulatory infrastructure intact and improves on it. This alternative would not scramble all our current regulators in the name of a change, but, instead, has carefully and thoughtfully made our current system better, creating more effective checks and balances. The consumer protection alternative title would create a consumer protection division to be housed within the FDIC.

The FDIC already oversees consumer deposit protection, so it is a logical step to place consumer protection interests here. While the new consumer protection division is shielded from outside influence and has autonomy, the division is, at the same time, prevented from wielding absolute power like the bureau. When rule changes or actions are proposed, the FDIC Board would be better able to use their regulatory experience to protect consumers, while at the same time ensuring safety and soundness are not disregarded.

This division would still have a Presidentially appointed and Senate confirmed Director who serves a 4-year term in office. Instead of needlessly looping all kinds of small businesses into the fold for additional regulation, the division's mission would be of a proactive consumer education, ensuring consumers are able to receive timely and understandable information on consumer financial products. The division would partner with other agencies, such as the Federal Trade Commission, to develop guidelines for market oversight. Through these types of partnerships, the division would pursue fraudsters and the bad actors in our market. They would be developing best practices for overseeing nondepository mortgage originators and addressing the risk-based supervision of our nondepository institutions.

Very importantly, this new alternative leaves current prudent regulators in place for banks, savings associations, and credit unions. While the division would watch over the large institutions that have already violated consumer protection statutes, this alternative would provide an infrastructure with regulatory experience that would also meet the demands of growing consumer financial protection concerns. This proposal creates a balance between past regulating experience and the call by consumers to have more protection, without losing the rights to make personal financial decisions.

I am a cosponsor of the title X alternative because I believe in its ability to address consumer protection without regulating consumers out of their rights as citizens. I am a cosponsor because I believe this alternative regulates the bad actors without tossing small business into the mix and regulating them out of business.

It doesn't form a new agency that has to go through a whole rulemaking process over a period of time before we even know what they are doing.

Putting this bureau under the Federal Reserve, with all the concerns and pressures focused on the Fed right now, is a very bad idea. Moving consumer protection to an unregulated, nontransparent, not accountable new agency that can write its own rules without review and operate using unchecked money is beyond my comprehension, and I think it is beyond the comprehension of the American people when they find out about it. I am not sure they are aware of it or I think there would be a huge hue and cry across this country. People are more concerned over their freedoms right now than they ever have been, and this will take away freedoms. You have to have the freedom to make your choices and even to make bad choices. But in America that is the way it works and Big Brother is not allowed to hang over your shoulder and decide for you whether you are making a good decision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I could not have said better what my friend and colleague from Wyoming just talked about in terms of this consumer protection bill. Every Member of this body is in favor of consumer protection. The goal is to get it right, not to do too much and not to do too little.

I think it is important for us to remember what we are trying to address. We are trying to address the financial market meltdown that happened in 2008 and the ramifications that have been so devastating to this economy. They were very devastating in my home State of Florida. But what we should do is address the problem. What we should do is try to make sure the problem does not happen again and not use this crisis as an opportunity to create a huge, new, all-powerful bureau of government that is going to regulate orthodontists and folks who had nothing to do with this financial crisis.

Let's think back about what happened. To me there are three or four parts of this story where you can find culpability, places where we should be regulating, some of which is not done in this bill. One is we know mortgages were given to people who should not have had mortgages—people who had no income and no jobs. They called them ninja loans—no income, no jobs. There were a lot of them in my State of Florida. Why were they written? Many of them were written because they were written by mortgage brokers and banks that did not have to retain any of those mortgages on their books. There were no underwriting standards. They could just ship them off. They had no skin in the game and no responsibility.

Then, on Wall Street, this huge market was created to suck in all these mortgages, to create these new investment vehicles that put all these mortgages together—mortgages that did not have the underwriting standards so you could make sure they were sound. In the need to create more and more investment instruments, they created what are called synthetic investment entities. Those are not even ones that held these actual mortgages. They were just merely a shadow that tracked them. So we compounded the problem into hundreds of trillions of dollars, betting on mortgages that should never, in many ways, have been written in the first place.

Then, what was the third part of the problem? These mortgages got bundled into these mortgage-backed securities, sold on Wall Street, and the world looked to the rating agencies to stamp their approval on them. The Morningstars and the Moody's and the Fitches and the S&P's stamped their rating and said they are AAA, without understanding them, without evaluating them. That is another one of the culprits that caused this financial crash that we had that has devastated our economy. But for those rating agencies putting the AAA grade on these mortgage-backed security investments, I don't believe we would have had the crash that occurred. People would not have placed their confidence in them.

Why did that happen? Why did these rating agencies stamp them? Why did so many people rely upon them? What we come to find out is these rating agencies are written into law. They are written into the Federal law as the way to determine the creditworthiness of investments. The FDIC abdicates its authority and allows rating agencies to be the ones that say something is a good investment or not. That is in the law.

How do these rating agencies get paid? They get paid by the very banks that put products in front of them for them to rate. So here is a real easy way to understand this. We all buy Consumer Reports Magazine. Consumer Reports Magazine evaluates everything from toasters to Toyotas, but they don't take any money from the people they rate. They don't have advertisers. But for these rating agencies, they are paid by the people they rate, by the products these banks bring in front of them. Our law says they are the ones that are going to determine whether something is creditworthy.

I wish to make sure we have, as Senator SHELBY has put forward, a good consumer protection law in this country. But I also wish to make sure we are addressing the problems that caused this failure in the first place, and one of the ways to do that is to make sure we have underwriting on these mortgages so people have some skin in the game: You are putting a downpayment on your house, you are showing you are creditworthy. That is the way it always was. It is only recently that went away. We need to go back to that.

That is why I join my colleagues, Senator CORKER, Senator ISAKSON, Senator GREGG, on their amendment to put the underwriting back in the mortgage business.

But another thing we need to do, we need to take the credit rating agencies and write them out of the law. They should no longer get their preferential treatment. No longer should the FDIC abdicate its responsibility to determine creditworthiness. The market should take care of this. If people know they can't just rely upon three or four or five rating agencies and they are going to have to do their evaluation themselves, we may prevent this problem from happening in the future and the next way this problem may manifest itself.

I have filed an amendment, amendment No. 3774, which will do this. It will take these credit rating agencies out of law. In that way, I believe we can stop one of the reasons why we had this financial collapse. It is not just me who believes in this. On the other side of this building, in the House of Representatives, this same language was put forward in the package that was passed.

So this should not be a Republican issue, it should not be a Democratic issue because the Democrats in the House supported something very similar to what I am proposing. This just makes common sense. Let's go after one of the problems that caused this financial mess.

I would like to point to the August 21 edition of the Wall Street Journal. In their editorial they say:

> When the government ordains Moody's and Standard and Poor's as official arbiters of risk, the damage can be catastrophic because so many people rely on them.

Well, let's no longer abdicate the government's responsibility. Let's no longer enshrine these rating agencies in Federal law. Let's get rid of one of the reasons we had this financial meltdown to start with. Let's not create a whole now huge consumer agency that does way too much, gets involved in too many things that had nothing to do with this financial meltdown. Let's go after the problem, solve that problem.

I believe we can do so by passing the amendment I have introduced today.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I compliment my colleague from Florida. He has addressed an issue which is an important part of this debate; that is, making sure loans that get made in this country, both on the borrower side and the lender side, are responsible loans.

I think the amendment he will offer is one on which we ought to have a debate and on which we ought to have a vote. I hope this body will act in a way that leads to more responsible practices, a higher level of responsibility, both with borrowers and lenders in this country, which was at the heart of why we ended up where we did.

It is interesting to me that we continue to watch the problems we are experiencing in our economy. Probably by far the most important one is the high level of unemployment. That has become sort of a chronic problem. Even though the economy appears to be recovering and growing again, we still continue to see these very high rates of unemployment, certainly worse in some parts of the country than in others, but, nonetheless, something that we cannot tolerate.

We ought to be attacking every single day. Everything we do ought to be focused on what we can do to eliminate this high level of unemployment, to provide incentives to small businesses to create jobs, to grow their businesses and expand, get the economy going again, and, obviously, in my view at least, the small businesses in this country are the economic engine of our economy. They are our job creators.

We ought to be focused on making it easier for them to create jobs rather than harder. That is why I think it is ironic that almost everything the Congress has been doing of late makes it even more difficult for small businesses to do that.

We passed a big, massive expansion of the health care entitlement in the Congress a while back. That is going to impose lots of new taxes, lots of new mandates on small businesses. It is going to raise their insurance premiums, which we are seeing now more and more. The CMS Actuary, with their recent report, suggests what we suggested all along; that is, this is going to drive up the cost of insurance and health care in this country. It is not going to drive it down, it is going to drive it up.

So I think what we are going to see with small businesses across this country is not only a higher tax burden associated with paying for that, and also many of the new mandates that are associated with it, but you are also going to see them having to deal now with higher insurance costs that will be associated and come with this massive health care expansion that was passed, not to mention the fact that, in my view, this is going to end up in a tremendous amount of growth in the debt in the outyears when we realize this is going to cost way more than it was anticipated, and that many of the offsets or pay-fors are probably not going to come to fruition.

But that being said, it seems to me at least that having all of this uncertainty coming out of Washington, whether it is the implementation of the new health care bill, whether it is questions about a climate change bill that could impose a crushing new energy tax on our economy, questions about what is going to happen with tax rates with regard to dividends and capital gains and marginal income tax rates next year, what is going to happen with the death tax—all of this uncertainty is just hanging a cloud over this economy and making it very difficult for our small businesses to do what they do best; that is, to exercise that entrepreneurial spirit, to grow the economy, to create jobs.

It is very difficult to do that when you pile more and more burdens and more and more costs on top of the very small businesses that we are hoping will lead us out of this recession. That is why I think in all of our efforts we ought to have a very close eye on what impact they are going to have on the small business sector of our economy.

This is no exception. The debate on financial services reform is about some very critical issues, issues that need to be addressed, issues that we should be focused on: how to deal with the issue of systemic risk and make sure that systemically risky enterprises in this country, that that risk is constrained, that there is appropriate oversight, there is appropriate transparency.

I think there is an important issue to be debated in terms of derivatives, which is a $600 trillion economy in this country that has been operating in the shadows. The legislation that is before us, I think if it is amended the right way—and I hope it will be on the Senate floor—will bring all of that into the light. There will be transparency, something that I think is desperately needed in that area.

I hope this will be done in a way that does not impose new burdens on end users, those who are trying to legitimately hedge against higher commodity prices, currency rates, and interests rates and those sorts of things. But there is work to be done in this legislation to deal with the issue of systemic risk, to ensure that we take all of the steps we possibly can to avoid and prevent the type of economic collapse and meltdown we witnessed a couple of years ago.

I think it is ironic this legislation does not encompass something that was at the very heart of that economic meltdown; that is, the issue of Freddie Mac and Fannie Mae. It is ironic to me, at least, the focus of this legislation is to deal with the issues that lead to the economic malaise that we found ourselves in and the collapse that we experienced a couple of years ago that would attempt to accomplish the objective of preventing that in the future, absent dealing with Freddie Mac and Fannie Mae, which was a huge contributing factor to what we witnessed a couple of years ago.

So it does not include that. It does get at derivatives; it does address, in some fashion, the issue of too big to fail. Then it also addresses this issue that we are debating right now, which is the issue of consumer protection. I would argue this is an important part of the debate when it comes to the regulation of our financial markets, perhaps even the most important part; that is, protecting consumers.

Having said that, I think what the recent financial crisis highlighted was the fact that there were a number of bad actors out there in the marketplace who were out for a quick profit, without concern for the consumer, and this consumer protection effort as part of this legislation is designed to correct that, or at least address and get at that problem.

I strongly support some of the consumer protection ideas that have been put forward. There is a Republican alternative amendment that has been offered to the base bill. But as is typically the case in the Congress, instead of just dealing with the issue that needs to be fixed, trying to fix the issue that needs to be fixed, it seems like the pattern is that we try to go beyond that and fix issues that do not need to be fixed; in fact, in this particular case, with a whole new bureaucracy, creating the whole new Consumer Financial Protection Bureau manned with lots of new Federal Government employees with lots of new powers, in my view, extending a reach way beyond what should ever have been contemplated to deal with the important issue of protecting consumers in this country.

Why do I say that? I had in my office last week a bunch of community bankers. I have met with credit unions. I have met with auto dealers. I have met with a lot of small businesses. I would argue these are not the types of entities that led to all of the problems we experienced. Those are not systemically risky entities or companies. These are hard-working, in most cases, small businesses.

When I sat down with my community bankers—I am not talking about big Wall Street banks; I am talking about Main Street banks, local banks, banks that are about their customers because they care about their customers; they are their neighbors; they are the folks they hang out with; their friends and their kids go to school together; these are people who are far removed from Wall Street—they told me about how this bill does not level the playing field and how they are going to be subject to a whole now layer of regulation they cannot afford. They told me stories about how they would make sure their customers are always satisfied and how they cannot afford to make bad loans. In these smaller banks in smaller communities where there is a tremendous amount of accountability, obviously these are not the types of banks at which this legislation should be targeted or directed.

These are banks that provide capital to our farmers, our small business owners. In my State of South Dakota, these are the people who—most of my constituents would rather bank with these big, large chain banks that we talk about when it comes to the issue of systemic risk. The Democrats' bill, in its current form, places new burdens on these banks, costly regulation on banks that are already heavily regulated, that have already proved to be sound financial entities.

I also recently sat down with some car dealers from my State, again small Main Street businesses in South Dakota, who have personal relationships with their customers. They told me how they may have to cut some of the services that they provide to their customers because of the broad authority that is granted to this brandnew agency, this Consumer Financial Protection Bureau.

These business take great pride—when I say ''these,'' the auto dealers—in the service they provide to their friends and neighbors who come into their businesses to buy a car. To have bureaucrats in Washington, DC, looking over their shoulder does not seem like the right approach to me.

I have heard the arguments that these small banks are somehow not going to be affected because of the $10 billion exemption, but I think it is important that we point out here, and that we clear up some of the facts on this issue. That $10 billion exemption is from enforcement and examination authority by the new Consumer Financial Protection Bureau. The new bureaucracy still has the ability to oversee every product and loan and transaction these small banks enter into with their customers.

I have also heard the argument that section 1027 excludes many of the small businesses that are calling me and e-mailing me and coming to my office because they are concerned. However, it seems to me, once a small business decides to give their customers an option to pay for their goods or services over time, this new Consumer Financial Protection Bureau can come knocking on their door. What Washington bureaucrats are going to tell them is what is in the best interest of their customers in South Dakota. So you can imagine the implications of this type of authority. Currently, the legislation provides very few checks on this new bureau's broad new authorities.

I want reforms to our current regulatory oversight structure. We need better protections for our consumers. But the bill that is before us creates a new bureaucracy that has a funding stream outside of congressional oversight with very few checks and balances, and that is not reform.

What I would like to see is this bureau removed from the bill. There are other ways to provide better protection for consumers without burdening small businesses, which, as I said earlier, are the engine of our economy.

Just to illustrate or to put a fine point on that, I have a letter from the National Federation of Independent Business, which represents businesses all across this country, has a very large membership, including many businesses in my State. They write to express their concerns with certain parts of the bill that are too far reaching and would impose major new costs on small business.

They go on to say:

The establishment of the Consumer Financial Protection Bureau will cover many small businesses strictly because they set up flexible payment arrangements with their customers.

According to a study they did a few years back on getting paid, approximately 50 percent of small businesses offer special terms or credit-type arrangements to allow customers to pay for goods or services. Then they go on to describe the nature of some of those arrangements. But I think it is fair to say a lot of small businesses—and car dealers are probably the most notable example. But as was said earlier, that could extend to furniture stores, jewelers; that could extend to orthodontists and dentists. People who allow their customers to spread out the payments over time to pay on terms and have these flexible types of payment arrangements would be covered by this.

That makes no sense. At a time when we are trying to have our small businesses help lead us out of this recession, start creating jobs instead of dealing with the systemically risky entities that got us into this mess in the first place, we are talking about piling a whole new burden and lots of new costs on top of our small businesses at a time when they can least afford it.

So I would hope the amendment that is being offered, the alternative to the Consumer Protection Financial Bureau in this bill, will be adopted; that my colleagues in the Senate will take steps to improve the way this bill treats consumer protection and in the way it treats small businesses under this bill.

I, frankly, as I said earlier, would like to see this title removed entirely and us deal with this in a way that makes more sense; that does not create a whole new bureaucracy, with all kinds of new government employees with all kinds of new powers. There are certainly ways in which we can address the issue of consumer protection absent having to go to these great lengths and this great cost, expense to the taxpayer, and great new burdens imposed upon small businesses in this country.

So I am one who will be supporting not only the amendment that is before us but other amendments that address this title in the bill. I have one I am working on that would exempt many of the small businesses that would be covered by this bill, some of which I mentioned in my remarks earlier. But I think this is an issue that is incredibly consequential in this legislation and so far removed—so far removed—from the purpose of this bill in the first place.

As I said earlier, we ought to fix the things that need to be fixed. But we should not try to fix things that do not need to be fixed, particularly when it calls for creating a whole new government bureaucracy in Washington, DC, with new government employees, at great additional cost and, of course, as I said earlier, at great additional expense to America's small businesses, which are the economic engine and job creators in our economy.

Mr. President, I yield the floor.

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

Mr. MENENDEZ. Mr. President, I wanted to come to the floor to talk about the Shelby amendment. I think we need to be 100 percent clear about one thing; that is, we need to pass a consumer protection bill—not a Wall Street protection bill—with a strong independent agency that can aggressively defend families in all sectors of the financial industry. That is consumer protection.

A weak agency that cannot defend families against commercial banks, investment banks, credit card companies, car dealers, payday lenders, and entities such as AIG, that is Wall Street protection. That is, in essence, what this amendment does. The fact is, the Republicans' proposal on this issue seems to symbolize America's worst fears about how the powerful operate—the powerful protecting the powerful. The problem isn't that families have too much protection on Wall Street; the problem is they have not been protected enough.

The Shelby substitute is just the status quo. It is a cynical attempt to pretend they are doing consumer protection. In reality, it is meant to make sure there is no meaningful consumer protection at the end of the day. It willfully ignores the lessons we should have learned: that left to their own devices, there are lenders who can and will take advantage of consumers. That is what the marketplace—as it is right now—has taught us.

We absolutely need a muscular, independent agency—however it is configured, wherever it is housed—one that will have full and comprehensive authority to develop and implement real, honest, proconsumer rules so they will no longer be fooled by 30 pages of fine print that no one except bank lawyers could possibly understand; one that has independent rule-writing authority and authority over banks and nonbanks, while maintaining strong State consumer protection laws; one that will stop the ongoing attempts by credit card companies to circumvent the rules this Senate and Congress have already enacted. They are already working at it.

As Harvard Law Prof. Elizabeth Warren has noted: Thanks to product safety rules, you can't buy a toaster that would burn down your house. But you can buy a faulty mortgage that could take your house away.

The bank regulators have been of no great help because they are looking out for the banks—not for us, not for you, not for unsuspecting families who need the full force protections of robust regulations implemented by a muscular agency that is on your side.

In my view, a new independent agency would provide not only the comfort they need but the protection they deserve. We can argue about details, but I doubt there is much disagreement after what we have been through that Wall Street needs a watchdog, one that has jurisdiction over all financial products no matter who offers them, not just the products offered by big banks.

Chairman DODD has worked very hard over many months to craft the details of an agency that strikes the right balance. I was happy to see that finally our Republican colleagues were saying: We are on the Wall Street reform train. But now I begin to wonder—when I see amendments such as this—that they jumped on the train to strike the emergency brake on consumer protection enforcement.

The Shelby amendment offers nothing in the way of consumer protection. There is no independence. The CFPB would simply be a division within the FDIC with no autonomy of its own. It could not even finalize a rule without FDIC approval. It will not have any resources. And that is how Republicans want it: no resources, no supervisory authority, no enforcement power. Guess who wins in that scenario.

Nonmortgage companies will never be subject to supervision unless they have a pattern or practice of breaking the law within the past 3 years. So what does that mean? "Let's have a lot of people get hurt before we actually would say we should now give them protection." It is not my sense of how the law should operate.

The Shelby amendment would establish the Division of Consumer Protection at the FDIC. It maintains, in essence, the status quo. Consumer protection rule writing will still be under the same authority, the same regulators who routinely ignored or opposed the needs of consumers. The amendment provides no safeguards to prevent the FDIC Chair or board from overriding decisions by the division director.

The amendment would actually prohibit—prohibit—the proposed consumer division from doing any rule writing under the Federal Trade Commission Act for payday lenders, debt collectors, foreclosure scam operators, mortgage brokers, and other nonbank consumer finance companies. It could only do examinations of nonbank consumer finance companies if they ''demonstrate a pattern or practice of violations'' of consumer law. So only after the consumer has been harmed repeatedly—after they have been harmed repeatedly—could the consumer division do any examination of the business.

This is simply saying: I am going to tell you that I am going to put a cop on the beat. He has no uniform, he has no equipment, and he cannot stop the bad guys. What a falsehood. We need to defeat this amendment, and we need to have a bill that ultimately gives strong consumer protections for millions of families in this country who have already faced the consequences of the system that is going on unregulated in a way that it allows greed and excesses to take place and that puts protections, yes, for Wall Street but not for Main Street.

Senator DODD has struck the right balance. We need to preserve it. I look forward to supporting him and opposing this amendment.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, let me briefly express my gratitude to my great pal and friend from New Jersey, BOB MENENDEZ, once again. We look around. There are 100 of us here. I do not often acknowledge these things, but if I had to pick one of our colleagues to be in my corner as an advocate, I would pick BOB MENENDEZ every time. He is a strong advocate. When he is focused and passionate about a matter, as he is on this one, there is no better advocate in the Senate. He has been a great member of our committee and a great help over the last few years where we have worked together on a number of bills coming out of the committee.

His understanding of this issue is exactly right. I say, there are ideas people can offer on which they can make a case that they strengthen our particular provision. But I say, respectfully, this is such a step backward, it is even hard to imagine someone could actually conjure up an amendment that would step us this farther away from even the status quo.

I thought I might get an amendment that would strike this and leave the world as it is. Senator THUNE made that argument, that somehow this is not broken, leave it alone. Yet there is not a person I know of in the country who does not recognize this problem all began because there were unscrupulous brokers, there were people willing to put ratings on bundled securities that were worthless, there were bankers willing to turn a blind eye and a deaf ear, pushing out mortgages they knew people could not possibly afford, luring them into it by promising them they could meet all their obligations.

To suggest the system is not broken—you would almost have to have been living on a different planet over the last few years not to recognize what happened because consumers were forgotten. Safety and soundness, we were told, were in great shape. Institutions were making money. This was a very stable situation.

We had a hearing almost 3 years ago in our committee. It was in June of 2007. A guy by the name of David Berenbaum from the National Community Reinvestment Coalition came before the committee. Let me quote, if I can—this is 3 years ago—from his testimony:

> For the past 5 years, community groups, consumer protection groups, fair lending groups, and all of our members in the National Community Reinvestment Coalition have been sounding an alarm about poor underwriting—underwriting that not only endangered communities, their tax bases, their municipal governments, their ability to have sound services and celebrate home ownership—but [underwriting that] was going to impact on the safety and soundness of our banking institutions themselves. Those cries for action fell on deaf ears, and here we are today.

I remember my colleague from New Jersey, almost 3 years ago—I remember his words—I do not have them written down in front of me, but I remember them very clearly. I say to the Senator, your words that day were: This is going to be a tsunami. It was the first time I heard those words used to describe the looming foreclosure crisis.

We were told then there would be maybe 1 million, maybe 2 million foreclosures. Now we know the number is in excess of 7 million that have occurred—not to mention job loss and the like.

The consumer people were arguing for underwriting standards. It was the safety and soundness regulators who were refusing to acknowledge we did not have underwriting standards or were refusing to acknowledge we needed to do something about it. So I wanted to commend my colleague.

Mr. MENENDEZ. Mr. President, if I may ask my distinguished chairman to yield for a moment, the Chairman is absolutely right. As a matter of fact, when I made that comment that we were going to have a tsunami of foreclosures, the administration witnesses at the time—the previous administration, of course—said, with all due respect, that is an exaggeration.

Mr. DODD. Right.

Mr. MENENDEZ. I wish they had been right and we had been wrong. But I think the chairman hits it right on point. In the context of the rating agencies, they were playing coach and referee. When you are playing coach and referee, somehow the game does not work out quite all that well.

I appreciate what the Senator done in that respect here as well.

I think the chairman makes the case very clearly that the definition of insanity is doing the same thing time and time again and expecting a different result. If we want to see what has happened to the American consumer in this country continue—facing the same consequences they have had to face over the last couple years—then we adopt this amendment. But if we want to change that, then we would support the underlying provisions in his bill.

I thank the Senator for his leadership.

Mr. DODD. Mr. President, I thank the Senator.

The last point I want to make on the amendment is, under this proposal, any person who is subject to one of the enumerated statutes could be assessed—under this bill, in section 1015(a)—and this amendment, by the way—talk about a bureaucracy, it is a long amendment—but in 1015(a), it says:

> The Chairperson shall establish, by rule, an assessment schedule—

So we are going to assess now these various institutions that are already burdened with assessments—

> including the assessment base and rates, applicable to covered persons subject to section 1023. . . .

I know this sounds like a lot of gibberish, but what is section 1023? What does it say? Section 1023 talks about nondepository institutions subject to consumer laws—just consumer laws. One of the complaints about our underlying bill—which is totally false—is that florists and butchers and dentists and accountants and lawyers would be subject to the provisions of this act. Nothing could be further from the truth, and the language in our bill makes it explicitly clear that you must be significantly involved in financial services or products. That is the language of our bill.

Section 1023: Nondepository institutions subject to consumer laws could be levied with assessments. That is your florist, your butcher, your dentist, your accountant, your lawyer. So as to those who argue against my bill and argue for this alternative—in fact, explicitly in here, at least as I read this—it could very well impose assessments on the very people they claim are affected by our legislation.

Again, I invite my colleagues to read it. It is not a speech I am reading. I am reading from the proposed amendment. That section 1023—specifically, you can look it up in here; it is a section of the bill—it speaks about nondepository institutions subject to consumer laws. And the definition, accordingly, is the very people who are not financial institutions, who could be levied with those assessments.

So for all those reasons, respectfully, I would urge my colleagues to reject this amendment. I do not claim perfection in our underlying consumer protection language. We think we have a very strong bill. I am always anxious to hear from people who think they can make it stronger or better in some way. Fine. But to propose a whole new regulatory structure here, with new people coming on, at great cost, with no power whatsoever to do anything about the very problem that confronts us, seems to me to be the height of what we are trying to avoid: creating a bureaucracy that does not do much. That, it seems to me, is what the American taxpayers want us to avoid.

With that, we have completed on our side the debate against this amendment. Unless there is some further comment, then I would ask for the yeas and nays on the amendment and call for a vote.

Mr. BYRD. Mr. President, I oppose the Shelby amendment.

In our zeal to protect consumers from egregious banking and lending practices, I fear the Senate is paying too little attention to basic constitutional tenets.

The Shelby amendment proposes to create a division for consumer financial protection within the Federal Deposit Insurance Corporation, FDIC, to exempt that new entity from the congressional appropriations process. The underlying substitute amendment proposes a similar model—a new Bureau of Consumer Financial Protections within the Federal Reserve System, which would also be exempt from the congressional appropriations process. This is in addition to several exemptions proposed in the underlying substitute amendment—exemptions for the Securities and Exchange Commission, and for new funds for the Securities and Exchange Commission and exemptions for the Commodities and Futures Trading Commission fund to reward whistleblowers.

I understand the desire by some to create a new consumer agency, and to elevate its status to that of a banking regulator but, these proposals—the Shelby amendment, and the underlying Democratic substitute—are alarming in the aggregate spending latitude they are recommending for one agency. The usual procedure of executive review by the White House budget office, and public discussion of the President's budget submission through hearings, testimony, questions, debate and amendment—would not apply to the new consumer agency under both the Republican and Democratic proposals. I support stronger consumer protections in the financial services industry, but I do not believe that the elected representatives of the people have to forfeit their constitutional oversight responsibilities in order to make that happen.

We need to remember that the financial regulators have their directors appointed by presidents, and that the Congress needs to be able to exercise oversight. If enforcement is inadequate, or abusive, the people's most potent weapon to effect change is the congressional power of the purse.

In the bill passed by the House of Representatives last year, the House proposed to create a new consumer protection agency, and to subject its funding—at least in part—to the annual appropriations process. That model is a better way of helping consumers than exempting the budget of the consumer protection agency from congressional review.

Mr. SHELBY. Mr. President, it is my understanding that Chairman DODD has asserted that the Shelby consumer protection substitute would lead to additional assessments on community banks. I want to make it clear for the record that this is not true.

But before doing so, I do want to highlight that the basic thrust of Chairman DODD's assertion is based on the belief that placing the taxpayer on the hook for the costs of regulating Goldman Sachs, Citigroup, and J.P. Morgan is the preferential way of proceeding.

Again, Chairman DODD believes that taxpayers paying the freight for Goldman is the way to go.

But I want to set the record straight about my amendment. First, my provision ensures that any nonbanks that are subject to regulation pay the full cost of that regulation themselves. They get no handouts from the taxpayer.

Secondly, community banks are not presently assessed by the FDIC for the cost of regulation, and my amendment does not provide the FDIC with any new authority to make such assessments.

Funding for the new division will be provided by assessments on nonbank mortgage originators, the other nonbank entities that are subject to regulation and large banking institutions. I would point out that the assessments on large banks will increase considerably following passage of the Tester amendment, which Chairman DODD supported.

Finally, in an effort to protect deposit insurance, my amendment creates a separate consumer financial protection fund which will ensure that funds for deposit insurance and consumer protection are never comingled.

Mr. President, let's be clear about the differences in the funding sources in the two bills. The Dodd bill uses taxpayer funds to give a free ride to Goldman Sachs and the other big Wall Street Banks while my amendment makes big banks and bad actors cover their own costs.

The PRESIDING OFFICER (Mr. FRANKEN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, before calling for the vote, I ask unanimous consent that the Senate now proceed to a vote with respect to the Shelby amendment No. 3826, with no amendment in order to the amendment prior to the vote; further, that the previous order with respect to the Sanders amendment remain in effect, and provided that after the Sanders amendment has been called up and reported by number, Senator MCCAIN be recognized to call up an amendment relating to GSEs; that after the McCain amendment has been reported by number, the Senate then resume consideration of the Sanders amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Mr. President, again, before we get to this vote, let me make this appeal. We are going to have this vote, and then we will go to the Sanders amendment and then to the McCain amendment. Again, we are going to try to go back and forth and move along. The number of amendments now has increased to over 150. I say to my colleagues, there are actually more amendments on the Democratic side than the Republican side—not many more but more. I urge my colleagues, if you have very like minded amendments, it may be in your interests to combine these ideas in a single amendment—maybe rally around one that actually makes the point, to either extract from the bill or add to the bill because we all realize we are not going to be on this bill forever, and I want to accommodate as many people as I can and have the kind of discussion we just had on this amendment. But to do that in the timeframe we have is going to require cooperation and some indulgence on the part of people to not be demanding.

To the extent you have an amendment up, let's try to get to it and have a good discussion but not too long so we give other people a chance to be heard as well. I make that plea to everyone involved.

With that, I yield the floor.

AMENDMENT NO. 3826 TO AMENDMENT NO. 3739

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 61, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—38

Alexander	Crapo	Lugar
Barrasso	DeMint	McCain
Bond	Ensign	McConnell
Brown (MA)	Enzi	Murkowski
Brownback	Graham	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Collins	Johanns	Voinovich
Corker	Kyl	Wicker
Cornyn	LeMieux	

NAYS—61

Akaka	Boxer	Carper
Baucus	Brown (OH)	Casey
Bayh	Burris	Conrad
Begich	Byrd	Dodd
Bennet	Cantwell	Dorgan
Bingaman	Cardin	Durbin

Feingold	Leahy	Sanders
Feinstein	Levin	Schumer
Franken	Lieberman	Shaheen
Gillibrand	Lincoln	Snowe
Grassley	McCaskill	Specter
Hagan	Menendez	Stabenow
Harkin	Merkley	Tester
Inouye	Mikulski	Udall (CO)
Johnson	Murray	Udall (NM)
Kaufman	Nelson (NE)	Warner
Kerry	Nelson (FL)	Webb
Klobuchar	Pryor	Whitehouse
Kohl	Reed	Wyden
Landrieu	Reid	
Lautenberg	Rockefeller	

NOT VOTING—1

Bennett

The amendment (No. 3826) was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me give my colleagues some idea of how we are going to proceed.

Senator SANDERS has the next amendment. We entered into a unanimous consent agreement a few minutes ago. Senator SANDERS has asked for 80 minutes to be equally divided on his amendment. We then turn to the McCain amendment. I am hoping we get a time agreement on that amendment as well.

There are 141 amendments, about equally divided between us. I want to accommodate everybody as much as I can. If some people take too much time, it means others do not get a chance to offer their amendments.

I make a request of my good friend Senator SHELBY to inquire, before we get to the McCain amendment, what kind of time agreement we can have on his amendment. Then my intention is to go to a Democratic amendment and possibly a Republican amendment tonight.

There are going to be votes tomorrow. I am letting my colleagues know we will have votes tomorrow. I gather Monday and Friday of next week are nonvote days. If we have 141 amendments and Members want to be heard—and I want to give them time to be heard and have good debate—obviously we cannot go on forever.

Mr. REID. Will my friend yield?

Mr. DODD. I will be happy to.

Mr. REID. Mr. President, for all the Senators here, we may have 141 amendments, but this is not the first time we have had 141 amendments on a bill. I have looked at a catalog of the amendments, and a lot are on the same subject. What we are trying to do is find out different categories and not have everybody offer the same amendment.

Our goal tonight should be to try to get rid of four amendments. If we could have four amendments out of the way tonight, we could look—and I thank my friend because I told him we are going to have votes in the morning, or at least a vote. I can create a vote. I hope we don't have to start creating votes. I hope they are on amendments people want to debate.

Senator SANDERS has an amendment. Has he agreed to a time?

Mr. DODD. Yes, he has.

Mr. REID. Senator MCCAIN, has he agreed to a time?

Mr. SHELBY. It is on GSE. It will take a while.

Mr. DODD. If everybody demands more time, everyone suffers. There is not unlimited debate. With 141 amendments equally divided between us, we have to provide time for people. I cannot do that if people insist on unlimited time or more time. We know these issues pretty well. It is not as if it is a new bill.

Mr. MCCONNELL. If my friend from Connecticut will yield for an observation, Mr. President, we may have 141 amendments, but they are not all equal. We are going to try to work our way through the major amendments in a serious way. This is a very important piece of legislation. The majority leader and I had a conversation earlier today on how to go forward. We will keep working on it in a systematic way and maximize a way for people to have votes on important amendments.

Mr. DODD. I agree. I say to my friend the Republican leader, we spent 24 hours on one amendment. We have to do better than that. I cannot accommodate people if we are going to spend a day on one amendment. It just does not work. All amendments may not be equal, but all Members are, and all Members deserve an opportunity to be heard.

I appreciate the majority leader's point of trying to consolidate if several Members have the same idea about something. Maybe it can be brought together in one amendment rather than five—I say that to both Democrats and Republicans—as a way of moving the process along, and we can have a good discussion. I cannot spend 24 hours on one amendment and accommodate people. It just is not going to happen. That is my point.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, we are making progress. We might not be making progress as quickly as some people would like. Maybe we did spend a lot of time on this amendment, but it is very important. We have debated it. I guess it has been disposed of, at least that part of it, now. But there are a lot of other important amendments coming up. We can work together and work through some of them because a lot are duplications to some degree, and some of them we can take. Senator DODD and I can help our staffs on that. Remember, this affects all of our economy—everything.

Mr. DODD. I will take advantage of the moment to say that I will be here all weekend. We are not going to have votes on the weekend. I will be here all weekend. For people who would like to have amendments and would like us to consider them, Senator SHELBY's staff will be around and my staff will be around to work on their amendment to see if we can accommodate it, modify it, or talk about it. I will spend Saturday and Sunday here all day for people to go over their products so maybe we can expedite things next week as well.

Mr. REID. Mr. President, if I may talk to the two managers through the Chair, I know how important everyone thinks their amendment is. But you can have half an hour on each side, an hour for an amendment. Someone can say quite a bit in 5 minutes. I think we are going to have to have some guidelines as to what we are going to do. Everyone thinks their amendment is the most important, and I am sure in their mind it is. We have to set some standard. I have been very accommodating in this last 24 hours because I think so much of the comanager of the bill, Senator SHELBY. We could have moved to table his amendment a long time ago.

Let's understand, there are other ways we can move forward. If somebody says: I need 3 hours on an amendment—there is not an amendment on this bill that is worth 3 hours, OK? We have had a good conversation.

I hope the two managers can give us some guidelines as to what they expect to do tonight and tomorrow because Members have other things to do than listen to the three of us.

Mr. DODD. Senator SANDERS.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 3738 TO AMENDMENT NO. 3739

Mr. SANDERS. Mr. President, I call up amendment No. 3738.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. SANDERS], for himself, Mr. FEINGOLD, Mr. DEMINT, Mr. LEAHY, Mr. MCCAIN, Mr. WYDEN, Mr. GRASSLEY, Mr. DORGAN, Mr. VITTER, Mrs. BOXER, Mr. BROWNBACK, Mr. RISCH, Mr. WICKER, Mr. GRAHAM, Mr. HATCH, and Mr. CRAPO, proposes an amendment numbered 3738 to amendment No. 3739.

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

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

The amendment is as follows:

(Purpose: To require the non-partisan Government Accountability Office to conduct an independent audit of the Board of Governors of the Federal Reserve System that does not interfere with monetary policy, to let the American people know the names of the recipients of over $2,000,000,000,000 in taxpayer assistance from the Federal Reserve System, and for other purposes)

On page 1525, strike line 20 and all that follows through page 1528 line 3 and insert the following: "to the taxpayers of such assistance.".

SEC. 1152. INDEPENDENT AUDIT OF THE BOARD OF GOVERNORS.

(a) AMENDMENTS TO SECTION 714.—Section 714 of title 31, United States Code, is amended—

(1) in subsection (a), by striking "the Office of the Comptroller of the Currency, and the Office of Thrift Supervision." and inserting "and the Office of the Comptroller of the Currency.";

(2) in subsection (b), by striking all after ''has consented in writing.'' and inserting the following: ''Audits of the Federal Reserve Board and Federal reserve banks shall not include unreleased transcripts or minutes of meetings of the Board of Governors or of the Federal Open Market Committee. To the extent that an audit deals with individual market actions, records related to such actions shall only be released by the Comptroller General after 180 days have elapsed following the effective date of such actions.'';

(3) in subsection (c)(1), in the first sentence, by striking ''subsection,'' and inserting ''subsection or in the audits or audit reports referring or relating to the Federal Reserve Board or Reserve Banks,''; and

(4) by adding at the end the following:

''(f) AUDIT OF AND REPORT ON THE FEDERAL RESERVE SYSTEM.—

''(1) IN GENERAL.—An audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks under subsection (b) shall be completed within 12 months of the enactment of the Restoring American Financial Stability Act of 2010.

''(2) REPORT.—

''(A) REQUIRED.—A report on the audit referred to in paragraph (1) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed and made available to—

''(i) the Speaker of the House of Representatives;

''(ii) the majority and minority leaders of the House of Representatives;

''(iii) the majority and minority leaders of the Senate;

''(iv) the Chairman and Ranking Member of the appropriate committees and each subcommittee of jurisdiction in the House of Representatives and the Senate; and

''(v) any other Member of Congress who requests it.

''(B) CONTENTS.—The report under subparagraph (A) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed—

''(A) as interference in or dictation of monetary policy to the Federal Reserve System by the Congress or the Government Accountability Office; or

''(B) to limit the ability of the Government Accountability Office to perform additional audits of the Board of Governors of the Federal Reserve System or of the Federal reserve banks.''.

SEC. 1153. PUBLICATION OF BOARD ACTIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Board of Governors shall publish on its website, with respect to all loans and other financial assistance it has provided since December 1, 2007 under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, the Term Asset-Backed Securities Loan Facility, the Primary Dealer Credit Facility, the Commercial Paper Funding Facility, the Term Securities Lending Facility, the Term Auction Facility, the agency Mortgage-Backed Securities program, foreign currency liquidity swap lines, and any other program created as a result of the third undesignated paragraph of section 13 of the Federal Reserve Act—

(1) the identity of each business, individual, entity, or foreign central bank to which the Board of Governors has provided such assistance;

(2) the type of financial assistance provided to that business, individual, entity, or foreign central bank;

(3) the value or amount of that financial assistance;

(4) the date on which the financial assistance was provided;

(5) the specific terms of any repayment expected, including the repayment time period, interest charges, collateral, limitations on executive compensation or dividends, and other material terms; and

(6) the specific rationale for providing assistance in each instance.

(b) TIMING.—The Board of Governors shall publish information required by subsection (a)—

(1) not later than 30 days after the date of enactment of this Act; and

(2) in updated form, not less frequently than once annually.

Mr. SANDERS. Mr. President, this amendment, which calls for transparency at the Fed, is, frankly, one of the more unusual amendments I have ever participated in, not so much for its content but for the kind of coalition that has come together around it. How often do you have the AFL–CIO and FreedomWorks supporting the same effort? How often do you have the SEIU, which is the largest trade union in this country, moveOn.org, which I believe has some 5 million progressive members, and Public Citizen striving for the same goal as the National Taxpayers Union or the Eagle Forum or the Conservative Americans for Tax Reform? There is a coalition representing tens of millions of grassroots activists. Some of them are progressive, some where I come from, some of them are conservative, but they are all united around a very basic principle: We need transparency at the Fed, and we need it now.

I want to use this opportunity—and I thank Chairman DODD for allowing me to do this—to talk about the amendment, what it does, and why so many diverse groups are coming together in support of it because you do have to ask yourself: What is bringing together some of the most progressive groups in the country with some of the most conservative groups, some of the most progressive members of the Senate with some of the most conservative? I also want to tell my colleagues not only what this amendment does but to clarify as best I can what it does not because there has been some distortion about this amendment, and those distortions are blatantly untrue. I want to touch on that also.

The origin for this amendment came on March 3, 2009. That was the date that, as a member of the Budget Committee, I had the opportunity to ask Chairman Bernanke what I thought was a pretty simple question. Chairman Bernanke, obviously, is Chairman of the Fed. What I asked him was: Mr. Chairman, my understanding is that the Fed has lent out some $2 trillion to some of the largest financial institutions in this country. Would you please tell me and the American people who received that money? I thought that was a pretty simple and straightforward question. Mr. Bernanke said: No. Despite the fact that this was $2 trillion in zero interest or near zero interest loans, he apparently believes the American people do not have a right to know who received that money.

On that very same day, I introduced legislation requiring the Fed to put this information on its Web site, just as Congress required the Treasury Department to do with respect to the $700 billion TARP. And here we are today. Whatever one may think of TARP, one can get information as to who received that money, when it was paid back—the details. It is right there on the Internet. I believe that same information should be made available in terms of the Fed's zero interest and near zero interest loans.

What the Fed apparently does not understand—and this is the important point—is that this money, these trillions of dollars, do not belong to the Fed; they belong to the American people. It is incomprehensible to me—and I think to the overwhelming majority of people in our country—that the Fed believes they can keep this information secret.

This amendment not only requires that the Fed tell us who has received the $2 trillion it lent out, but, similar to the language incorporated in the House bill, it calls for an audit of the Fed by the GAO. That is it. That is what we are attempting to do with this amendment: transparency and a straightforward audit. Who got what when, on what basis, on what terms, who was at the meetings, who made the decisions, and taking a look at possible conflicts of interest—simple, factual questions that people from the State of Vermont ask me and I suspect people from Minnesota ask you, Mr. President, and people all over this country, regardless of their political persuasion, are asking.

I understand this amendment may not be supported by everyone. Some may suggest, inaccurately, that this amendment—and I quote from a statement—''takes away the independence of the Federal Reserve and puts monetary policy into the hands of Congress.'' That is one of the charges being made against this amendment.

Let me address that concern by simply reading to the Members of the Senate exactly what is in the amendment so that we know what we are talking about. I quote from page 4 of a six-page amendment. It is not a long amendment. It cannot be clearer than this. This is what it says:

> Nothing in this subsection shall be construed as interference in or dictation of monetary policy to the Federal Reserve System by the Congress or the Government Accountability Office.

If there are people who are saying: Oh, we are going to get involved in monetary policy; oh, we are going to be politicizing the Fed; oh, we are going to have, before an election, Congress telling the Fed to raise interest rates or to lower interest rates, that is absolutely inaccurate. That is not what we are doing. That is not, in my view, what we should be doing.

We want an independent Fed. We want them to develop monetary policy. That is not—underline not—what this amendment does. This amendment does not tell the Fed when to cut short-term interest rates and when to raise them. It does not tell the Fed which banks to lend money to and which banks not to lend money to. It does not tell the Fed which foreign central banks they can do business with and which ones they cannot do business with. It does not impose any new regulations on the Fed, nor does it take any regulatory authority away from the Fed. Let's be clear about that.

I think what the opponents of this amendment are doing is equating independence with secrecy, and there is a difference. At a time when our entire financial system almost collapsed, we cannot let the Fed operate in secrecy any longer. The American people have a right to know.

I find it amusing that there are some people who oppose this amendment. As Chairman DODD and the Presiding Officer know, we have had heated debates on the floor of the Senate over a $5 million amendment, over an $8 million provision that goes on for hours. Yet where we have trillions of dollars being lent out, there are some people who think the American people don't have a right to know who got that money. I think, frankly, that is absurd.

The American people, as we hear over and over on the floor of the Senate, play by the rules. That is what the average American family does; they play by the rules. Well, what are the rules governing the Fed? Who makes those rules or are they just made up as they go along and they do not have to tell anybody about it? So I have a problem with that, and that is what this amendment is about.

Here, to my mind—and these are just my issues; others may have different issues, and I am sure they do—are just a few of the questions the American people are asking and why we need a GAO audit of the Fed. These are just a few. Let me throw them out.

Why was Lloyd Blankfein, the CEO of Goldman Sachs, invited to the New York Federal Reserve to meet with Federal officials in September of 2008 to determine whether AIG would be bailed out or allowed to go bankrupt?

When the Fed and Treasury decided to bail out AIG to the tune of $182 billion, why did the Fed refuse to tell the American people where that money was going? Why did the Fed argue that this information needed to be kept secret ''as a matter of national security?''

Here is the point. When AIG finally released the names of the counterparties receiving this assistance, how did it happen that Goldman Sachs received $13 billion of this money; AIG, $182 billion; $13 billion going to Goldman Sachs—100 cents on the dollar of a company that was going bankrupt and that was bailed out. How is that—100 cents on the dollar? Not bad.

Another question people might ask: Did Goldman Sachs use this money to provide $16 billion in bonuses the next year? Here you have Goldman Sachs getting $13 billion out of the $182 billion that AIG got, and the next year they are announcing $16 billion in bonuses. Did they use some of this money to provide those bonuses?

A GAO audit of the Fed might help explain to the American people if there were any conflicts of interest surrounding this deal. I think the average American would say: Yes, there is a conflict of interest. You have a guy from Goldman Sachs sitting in the room arguing for $182 billion. They got $182 billion; he gets $13 billion. The next year his company gives $16 billion in bonuses.

Is there a conflict of interest? I think so. That is my opinion. My opinion isn't the important one, but that is what the GAO will be doing if this amendment is passed.

Just another question out there. In 2008, it seems to me—I may be wrong—there was a conflict of interest at the Federal Reserve Bank of New York, when Stephen Friedman, the head of the New York Fed, who also served on the board of directors of Goldman Sachs—let's back it up. The head of the Fed serves on the board of Goldman Sachs, approved Goldman's application to become a bank holding company, giving it access to cheap loans from the Federal Reserve. OK. The head of the New York Federal Reserve, on the board of Goldman Sachs, is applying for Goldman Sachs to become a bank holding company to gain cheap loans from the Fed.

It looks to me like there may be a conflict of interest, but what do I know? That is what we need a GAO report to tell us.

Here, interestingly enough, is an article from May 9, 2009, in the Wall Street Journal. Let me quote briefly from that article:

> Goldman Sachs received speedy approval to become a bank holding company in September of 2008. During that time, the New York Fed's chairman, Stephen Friedman, sat on Goldman's board and had a large holding in Goldman's stock, which, because of Goldman's new status as a bank holding company, was a violation of Federal Reserve policy. The New York Fed asked for a waiver, which, after about 2½ months, the Fed granted. While it was weighing the request, Mr. Friedman bought 37,300 more Goldman shares in December. They have since risen $1.7 million in value. Mr. Friedman, who once ran Goldman, says none of these events involved any conflicts.

That is the Wall Street Journal article from May 9, 2009. That is what Mr. Friedman says. Well, I kind of disagree with him, but I would like the GAO to take a look at that. Without a comprehensive GAO report, we have to take Mr. Friedman at his word, and I don't think we should. Who got what? When did they get it? On what basis and what terms? Who was at those meetings? Were there conflicts of interest? These are the kinds of questions a GAO audit of the Fed will answer.

As a result of the bailout of Bear Stearns and AIG, the Fed—and this is a beauty, this is quite something—the Fed now owns credit default swaps—listen up on this one—betting that California, Nevada, and Florida will default on their debt. So the Federal Reserve stands to make money if California, Nevada, and Florida go bankrupt. I suspect that the Senators from the great States of California, Nevada, and Florida would be rather interested to know that if their States go bankrupt, the Fed makes money.

On the surface, this looks a little absurd to me, but again, I think this is an issue that the GAO might be taking a look at.

It has been reported that the Federal Reserve pressured the Bank of America into acquiring Merrill Lynch—making this financial institution even bigger and riskier—allegedly threatening to fire its CEO if the Bank of America backed out of this merger. When the merger went through, Merrill Lynch employees received $3.7 billion in bonuses. Was this a good deal for the American taxpayer? A GAO audit can help us find out.

When the Federal Reserve provided a $29 billion loan to JPMorgan Chase to acquire Bear Stearns, the CEO of JPMorgan Chase, Jamie Dimon, served on the Board of Directors at the New York Federal Reserve. Let me repeat that. When the Federal Reserve provided $29 billion to JPMorgan Chase, the CEO of JPMorgan Chase served on the Board of Directors of the New York Fed. Did this represent a conflict of interest? I think the average American would say yes. Maybe some people would have a different point of view. But I think a GAO audit can help explain all this to the American people.

Currently—and I think we have to appreciate this as well; we have to shed some light on these issues—some 35 members of the Federal Reserve's Board of Governors are executives at private financial institutions which have received nearly $120 billion in TARP funds, but we don't know how much these big banks received from the Fed. We know what they got from the TARP, not from the Fed. A GAO audit could answer this question.

All of us—I believe all of us—are deeply concerned that small- and medium-sized businesses around this country—I know it is certainly the case in Vermont—are begging for affordable credit. They have the opportunity to expand. We are beginning to see some economic recovery, but they want to expand, they want to create new jobs, and they are finding it extremely difficult to acquire those desperately needed affordable loans. I find it an important issue to ask how much of the trillions of dollars in zero or near zero interest loans that financial institutions received from the Fed went out to those small businesses or, perhaps, as I personally believe is the case, were simply invested in Federal Government bonds, earning an interest rate of 3 or 4 percent.

A number of observers believe—and the GAO can help us discover—the Fed provided zero interest loans to a large bank, which then took that money and bought government bonds at 3 percent. If that was the case, and I suspect it was, you are looking at a huge scam—a huge scam—when small- and medium-sized businesses needed the money. That was the intention of these loans. But I don't know how much of this was invested in growth bonds, you don't know, and the American people don't know. It is time we found out.

This amendment I am offering is virtually identical to legislation that I have offered on this subject that has 33 cosponsors. The amendment, I think, has 20, 22 Democrats and Republicans. The original legislation had 33 cosponsors. Just so you can get a sense of the diversity of ideological opinion behind this amendment, let me tell you the names of the people on board the legislation—not the amendment, the legislation: Senators BARRASSO, BENNETT, BOXER, BROWNBACK, BURR, CARDIN, CHAMBLISS, COBURN, COCHRAN, CORNYN, CRAPO, DEMINT, DORGAN, FEINGOLD, GRAHAM, GRASSLEY, HARKIN, HATCH, HUTCHISON, INHOFE, ISAKSON, LANDRIEU, LEAHY, LINCOLN, MCCAIN, MURKOWSKI, RISCH, SANDERS, THUNE, VITTER, WEBB, WICKER, and WYDEN.

Those are people who are on the original legislation—33 cosponsors. As you can see, they range from some of the most progressive Members to some of the most conservative Members. The amendment that is now on the floor has, I believe, 22 cosponsors, Republicans and Democrats alike, and I wish to thank all of them for their support.

The American people are asking: Can people work together? Can they come together on important issues? If there is an important issue that people with different ideological backgrounds have come together on, this is that one. So I wished to thank my Republican friends and my Democratic friends who, every other day, are fighting like cats and mice but on this issue have come together, and I appreciate that.

But it is not only the Members of the Senate. In terms of progressive grassroots organizations, this amendment enjoys the strong support of the AFL–CIO; the Service Employees International Union, the single largest union in the country; the United Steelworkers of America; Public Citizen; the New American Foundation; Center for Economic Policy; U.S. Public Interest Research Group; Americans for Financial Reform, which is a coalition of over 250 consumer, employee, investor, community, and civil rights groups. There is a huge amount of support from the progressive community. It also has a huge amount of support from the conservative community.

Let me read, briefly, a letter I received from the legislative director of the AFL–CIO. This is what he says:

> On behalf of the AFL–CIO, I am writing to urge you to support the Sanders-Feingold-DeMint-Leahy-McCain-Grassley-Vitter-Brownback amendment to increase transparency at the Federal Reserve. Working people want to know who benefitted from the liquidity provided by taxpayers during the crisis and this amendment will ensure that we receive this information.

I received another letter, which came from the president of the SCIU, the president of the United Steelworkers, the president of Public Citizen and many other progressive groups and this is what they say:

> Since the start of the financial crisis, the Federal Reserve has dramatically changed its operating procedures. Instead of simply setting interest rates to influence macroeconomic conditions, it rapidly acquired a wide variety of private assets and extended massive secret bailouts to major financial institutions. There are still many questions about the Fed's behavior in these new activities. The Federal Reserve's balance sheet expanded to more than $2 trillion, along with implied and implicit backstops to Wall Street firms that could cost even more. Who received the money? Against what collateral? On what terms and conditions? The only way to find out is through a complete audit of the Federal Reserve. That's why we support the amendment to increase transparency at the Fed.

That is from the SEIU, and many other unions.

That is what some of the progressive groups, quite frankly, that I work with quite often have to say about this amendment. But let me quote from some of the conservative organizations that, frankly, I usually do not have very good voting records with. Very often they oppose what I bring forth.

Here is the National Taxpayers Union. I don't know how many folks they have, but they are a big organization. This is what the National Taxpayers Union says:

> The National Taxpayers Union urges all Senators to vote ''yes'' on S. Amendment 3738 to the financial regulatory reform legislation. This amendment, introduced by Senators Sanders and DeMint, would require the Government Accountability Office to conduct an audit of the Federal Reserve. . . .

I like their next sentence.

> Transparency is not a Democrat or Republican issue, but rather an issue of right or wrong. If the Senate insists on further expanding the Fed's reach, Americans deserve to know more about the workings of a government-sanctioned entity whose decisions directly affect their economic livelihood. A ''yes'' vote on S. amendment 3738 [this amendment] will be significantly weighted as a pro-taxpayer vote in our annual Rating of Congress.

That means I may have at least a 1-percent approval vote from the National Taxpayers Union. I appreciate their support. That is from the National Taxpayers Union.

Let me quote from another letter of support I received from a group of conservative organizations that includes the Americans for Tax Reform, the Campaign for Liberty, the Rutherford Institute, the Eagle forum, Freedomworks, and the Center for Fiscal Accountability—again, some of the more conservative groups in the country, groups that usually do not support my issues. This is what they say:

> We urge you to vote for Senators Sanders, Feingold, DeMint, and Vitter's Federal Reserve Transparency Amendment. . . . This amendment does not take away the ''independence'' of the Fed. It simply requires the GAO to conduct an independent audit of the Fed and requires the Fed to release the names of the recipients of more than $2 trillion in taxpayer-backed assistance during this latest economic crisis. Any true financial reform effort will start with requiring accountability from our Nation's central bank.

Let me thank all of the conservative groups—in this case the Americans for Tax Reform, the Campaign for Liberty, and the others—for their very strong grassroots effort in supporting this amendment. It is an indication, again, that on certain issues progressives and conservatives can come together.

Let me mention this because I think it is possible that some of the Members do not know this. This amendment is not a radical idea. As part of the budget resolution debate in April of 2009, the Senate voted overwhelmingly in support of this concept by a vote of 59 to 39. I brought that up. It was a nonbinding vote, part of the budget resolution, 59 to 39. So many Senators have already gone on record supporting that.

Here is also an important piece of information. In the House of Representatives, this concept passed the House Financial Services Committee by a vote of 43 to 26 and was incorporated into the House version of the Wall Street reform bill that was approved by the House last December.

Again, what we are talking about is something that was passed in the House, and it is in the House bill. There is a variation. We are not the same, to be honest, but the same concept—for a Fed audit—already exists in the Wall Street reform bill passed in the House.

This concept has the support of the Speaker of the House, NANCY PELOSI, who has said Congress should ask the Fed to put this information ''on the Internet like they've done with the recovery package and the budget.'' That is exactly what this amendment would do.

Here is another point many people don't know. A lot of this language is in the House bill. A lot of this language has already been supported in the Senate last year as part of the budget resolution. But here is an important point many people do not know. Bloomberg News service did a very good job, and they have aggressively demanded, as a news organization, this information about who the Fed lent money to be made public. As a result of their efforts, two Federal courts—not one, two Federal courts—have ordered the Fed to release all the names and details of the recipients of more than $2 trillion in Federal Reserve loans since the financial crisis as a result of a Freedom of Information Act lawsuit.

So Bloomberg News filed suit and two Federal courts supported

Bloomberg. The Fed had argued in court in opposition to Bloomberg that it should not have to release this information, citing, according to Reuters—this is what the Fed said—''an exemption that it said lets Federal agencies keep secret various trade secrets and commercial or financial information.''

However, the U.S. Court of Appeals in New York disagreed. Here is what a unanimous three-judge appeals court panel wrote in their opinion:

To give the Fed power to deny disclosure because it thinks it best to do so would undermine the basic policy that disclosure, not secrecy, is the dominant objective. If the Board believes such an exemption would better serve the national interest, it should ask Congress to amend the statute.

This appeals court decision upheld an earlier ruling by the Southern Federal District Court of New York that also ordered the Fed to release this information. In other words, we now have 59 Senators who, as part of the budget resolution, voted on this issue; 320 Members of Congress, the House, and two U.S. courts that have all told the Fed in no uncertain terms: Give us transparency. That is what we have.

As I wind down and conclude my remarks, let me just simply say that I am thankful for all of the support, all the grassroots support from progressive and conservative groups, and from my fellow Senators. The American people have a right to know when trillions of their dollars are being spent and who gets it. The American people have a right to know whether there are conflicts of interest.

I thank my colleagues—there are so many cosponsors, I will not mention them all—but I thank all of them.

Let me conclude by saying I am very proud to say we have been working with Senator DODD's office and some other offices.

AMENDMENT NO. 3738, AS MODIFIED

I am going to ask that my amendment be modified with the changes that are at the desk. I am proud to say these modifications have been worked out with Senator DODD and would allow the GAO to conduct a top-to-bottom audit of all of the Federal Reserve's emergency lending activities since December 1, 2007. In addition, the modifications require the Fed to put on its Web site all of the recipients of over $2 trillion in emergency assistance since December 1, 2007.

The PRESIDING OFFICER (Mrs. SHAHEEN). The amendment is so modified.

The amendment (No. 3738), as modified, is as follows:

At the end of title XI, add the following:

SEC. 1159. GAO AUDIT OF THE FEDERAL RESERVE FACILITIES; PUBLICATION OF BOARD ACTIONS.

(a) GAO AUDIT.—

(1) IN GENERAL.—Notwithstanding section 714(b) of title 31, United States Code, or any other provision of law, the Comptroller General of the United States (in this subsection referred to as the ''Comptroller General'') shall conduct a one-time audit of all loans and other financial assistance provided during the period beginning on December 1, 2007 and ending on the date of enactment of this Act by the Board of Governors under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, the Term Asset-Backed Securities Loan Facility, the Primary Dealer Credit Facility, the Commercial Paper Funding Facility, the Term Securities Lending Facility, the Term Auction Facility, Maiden Lane, Maiden Lane II, Maiden Lane III, the agency Mortgage-Backed Securities program, foreign currency liquidity swap lines, and any other program created as a result of the third undesignated paragraph of section 13 of the Federal Reserve Act.

(2) ASSESSMENTS.—In conducting the audit under paragraph (1), the Comptroller General shall assess—

(A) the operational integrity, accounting, financial reporting, and internal controls of the credit facility;

(B) the effectiveness of the collateral policies established for the facility in mitigating risk to the relevant Federal reserve bank and taxpayers;

(C) whether the credit facility inappropriately favors one or more specific participants over other institutions eligible to utilize the facility;

(D) the policies governing the use, selection, or payment of third-party contractors by or for any credit facility; and

(E) whether there were conflicts of interest with respect to the manner in which such facility was established or operated.

(3) TIMING.—The audit required by this subsection shall be commenced not later than 30 days after the date of enactment of this Act, and shall be completed not later than 12 months after that date of enactment.

(4) REPORT REQUIRED.—The Comptroller General shall submit a report on the audit conducted under paragraph (1) to the Congress not later than 12 months after the date of enactment of this Act, and such report shall be made available to—

(A) the Speaker of the House of Representatives;

(B) the majority and minority leaders of the House of Representatives;

(C) the majority and minority leaders of the Senate;

(D) the Chairman and Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives; and

(E) any member of Congress who requests it.

(b) AUDIT OF FEDERAL RESERVE BANK GOVERNANCE.—

(1) AUDIT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall complete an audit of the governance of the Federal reserve bank system.

(B) REQUIRED EXAMINATIONS.—The audit required under subparagraph (A) shall—

(i) examine the extent to which the current system of appointing Federal reserve bank directors effectively represents ''the public, without discrimination on the basis of race, creed, color, sex or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers'' in the selection of bank directors, as such requirement is set forth under section 4 of the Federal Reserve Act;

(ii) examine whether there are actual or potential conflicts of interest created when the directors of Federal reserve banks, which execute the supervisory functions of the Board of Governors of the Federal Reserve System, are elected by member banks;

(iii) examine the establishment and operations of each facility described in subsection (a)(1) and each Federal reserve bank involved in the establishment and operations thereof; and

(iv) identify changes to selection procedures for Federal reserve bank directors, or to other aspects of Federal reserve bank governance, that would—

(I) improve how the public is represented;

(II) eliminate actual or potential conflicts of interest in bank supervision;

(III) increase the availability of information useful for the formation and execution of monetary policy; or

(IV) in other ways increase the effectiveness or efficiency of reserve banks.

(2) REPORT REQUIRED.—A report on the audit conducted under paragraph (1) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed, and such report shall be made available to—

(A) the Speaker of the House of Representatives;

(B) the majority and minority leaders of the House of Representatives;

(C) the majority and minority leaders of the Senate;

(D) the Chairman and Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives; and

(E) any member of Congress who requests it.

(c) PUBLICATION OF BOARD ACTIONS.—Notwithstanding any other provision of law, the Board of Governors shall publish on its website, not later than December 1, 2010, with respect to all loans and other financial assistance it has provided during the period beginning on December 1, 2007 and ending on the date of enactment of this Act under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, the Term Asset-Backed Securities Loan Facility, the Primary Dealer Credit Facility, the Commercial Paper Funding Facility, the Term Securities Lending Facility, the Term Auction Facility, Maiden Lane, Maiden Lane II, Maiden Lane III, the agency Mortgage-Backed Securities program, foreign currency liquidity swap lines, and any other program created as a result of the third undesignated paragraph of section 13 of the Federal Reserve Act—

(1) the identity of each business, individual, entity, or foreign central bank to which the Board of Governors has provided such assistance;

(2) the type of financial assistance provided to that business, individual, entity, or foreign central bank;

(3) the value or amount of that financial assistance;

(4) the date on which the financial assistance was provided;

(5) the specific terms of any repayment expected, including the repayment time period, interest charges, collateral, limitations on executive compensation or dividends, and other material terms; and

(6) the specific rationale for each such facility or program.

Mr. DODD. I will just take 30 seconds. I will speak longer on this a little later. But let me thank our colleague from Vermont. He is a remarkable individual who brings great intelligence and passion to this cause. He does not get involved in every issue that comes up on the floor of the Senate. I admire that. Some believe they have to have something to say about everything.

But when Senator SANDERS gets involved with something, you better believe he does it with a great deal of conviction and passion and purpose.

I am a cosponsor of this amendment he has just modified. I think it is absolutely correct. On the transparency issues, there are no excuses. When as much American taxpayer money has been exposed as has been, we have the right to know where it is going and who is involved in it. There was a concern about whether the independence of the Fed would be compromised. He has guaranteed in his language that is no longer an issue whatsoever. I thank him for it. It is a great amendment.

I know Senator GRASSLEY wants to be heard, and I yield the floor.

Mr. SANDERS. I thank the chairman.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, you have heard me say many times to my colleagues that the public's business ought to be public. I don't know why that does not apply to the Federal Reserve, at least on its regulatory activities when it gives out money. There are all kinds of reasons it should not apply to monetary policy. But for everything else, the Federal Reserve is acting at the behest of Congress through a law going way back to 1913 giving them certain powers. If Congress exercised these same powers—and under the Constitution we have the authority to do that—it would be the public's business; in fact, even more than what this amendment does. So the public's business ought to be public.

With transparency, and that is what this amendment is all about, you get accountability—it seems to me, with what has happened over the last 10 years, more transparency leading to accountability. If we had that transparency we probably would not have had the bubble in the first place that broke in 2008, which brought us to this recession.

So I rise not hesitantly but forthrightly to support the pending amendment by the Senator from Vermont. I appreciate all of his hard work on making the Federal Reserve more accountable to the people of this country. I am a cosponsor of his stand-alone bill, so I am glad to be a cosponsor of this amendment, to bring sunshine to the Fed.

During the last 2½ years, the Fed has gone well beyond what was viewed as its historical authority. It has taken on more and more risk, in complicated and unprecedented ways. It intervened in the market to prop up certain firms. It intervened in the market to protect these firms from failing, using an unlimited source of taxpayers' dollars to, in effect, pick winners and losers.

The risks they have taken will ultimately be borne by the American taxpayers. So in the interest of accountability, the taxpayers deserve to have answers on who got money and how it was spent.

Under law, the Federal Reserve has lending authority for unusual and exigent circumstances. Under section 13(c) of the Federal Reserve Act, the Reserve can ''discount for any individual, partnership or corporation, notes, drafts and bills of exchange when such notes, drafts and bills of exchange are endorsed or otherwise secured to the satisfaction of the Federal Reserve bank.''

Essentially, this means the Fed can lend to any entity or person when it believes there is an emergency. This is an extraordinary amount of power and discretion, and it should be exercised in the light of day. Transparency, accountability—the public's business ought to be public. Trillions of dollars were provided to financial institutions and corporations since the financial crisis began. The Fed helped rescue Fannie Mae and Freddie Mac. The Fed propped up Bear Stearns and AIG when they were on the brink of failure. They intervened in the business efforts of Lehman Brothers, Merrill Lynch, and Citigroup.

But how much has been doled out and to whom is still a mystery. This amendment would allow the independent arm of Congress, the Government Accountability Office, to review the decisions made by the Federal Reserve. And the Government Accountability Office is nothing but a group of professional people without a political motive and the right group to get the job done and do it on an ongoing basis. An objective review of the Fed's actions will serve our country well in the future.

We can learn from the mistakes that may have been made. We can determine if the losses or profits from the Fed's investments help serve the economy well. Did the Federal Reserve act in an appropriate and ethical manner? Was the relationship between regulators and the financial industry too cozy, hampering the ability to make an objective decision?

Proponents of the Federal Reserve should not consider this as a threat to the independence of the Fed—an independence I support. They should embrace an independent evaluation as an opportunity to improve its operations and, most importantly, strengthen public trust for future generations who may be faced with similar financial crises.

As the Senator from Vermont has made very clear, the intent of his amendment is not to interfere in monetary policy. I share that same feeling he has, and I would not support an amendment that went into monetary policy. But the Fed's extraordinary power outside of monetary policy should be subject to the light of day, transparency and accountability. The public's business ought to be public. We should allow the Government Accountability Office to audit the Fed since they have moved far beyond their traditional and primary mission of conducting monetary policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. I thank the Senator from Iowa not only for his support but for his long fight for transparency. It has been a pleasure working with the Senator.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I wish to thank my colleagues, Senators SANDERS and DEMINT, for putting forward, bringing this amendment to the floor. I am a cosponsor of this amendment, along with several of my other colleagues.

I would say as well to my colleague from Vermont, my colleague from South Carolina, and others who are sponsors, this is an issue I hear a lot about when I am traveling around my State, which is often. When I am traveling around and listening to people, this is something people are concerned about. They are concerned about the monetary policy. They are concerned about the money system. They are concerned.

I would note to people, and to my colleagues in particular, that the Congress created the Fed, the Fed didn't create the Congress. So the Congress does have control over this issue, and I think we need to look at it and say: Let's look at what is appropriate and what is proper. And this is clearly one piece of it.

I think the Fed has done a number of things quite well and quite right. Yet I don't see any problem whatsoever with having a simple audit; that that is going to somehow reveal the genie in the bottle and let out all of these secrets that are going to be harmful to the development of monetary policy. There seems to me to be a fair amount of overstatement on the other side of the terrible damage this audit would do. That does not seem right to me. It does not seem right to my constituents. My constituents look at this and say: Well, I do not want to harm the development of monetary policy. I want it to be wise and good and sound. But I do not see how it is harmed by an audit of an entity that is created by the government, that is created by the Congress. So why shouldn't we do something like this?

That is why I think this is a prudent amendment. It is a good commonsense amendment, and I think it will be well received by the constituents of this great country who I think are pretty wise on these and other decisions; that as we go around, if we will listen to what people are saying, I think there is a lot of wisdom in that. They are saying we ought to know more about what is taking place in the Fed.

I know we would all like to move forward on financial regulatory reform legislation. I have some serious problems in this bill. I think the consumer financial product piece shouldn't penalize auto dealers and orthodontists and others who did not cause any of these problems.

So I have an amendment. I have other amendments I am a part of as well, along with this one, that I think we need to consider before we move on forward, even though I have some problem with the basis of the bill. I think it hits more Main Street than it does Wall Street. The difficulty is that we just have different ideas and beliefs about the best way to move forward, and that is normal.

This amendment is not just about the choices, though, that we have on reforming the financial sector. I believe it gets to the heart of a more fundamental issue: what the American people have a right to expect and know from their governmental institutions.

The fact that this amendment is brought forward by the Senator from Vermont, Mr. SANDERS, and the Senator from South Carolina, Mr. DEMINT, two Members who could not be further apart on the ideological spectrum, should be a sufficient warning and measure to make everyone sit up and take notice of what it is that is here that is so troubling.

This amendment isn't about whether the legislation will put an end to taxpayer-backed bailouts. It isn't about whether the legislation will end too big to fail. It isn't even about how to best protect the American people and taxpayer dollars. It is about something I believe is even more fundamental: the accountability of governmental institutions to the people of the United States and to the Congress.

I think it is important, as I stated, to remember—I want to state this again—one single fundamental reality in this debate: Congress created the Federal Reserve, not the other way around. We created the Federal Reserve System to serve the interests of the citizens of this Nation, not to serve the interests of large financial institutions.

In establishing the Federal Reserve, Congress recognized the importance of a central bank that could operate with independence to ensure the orderly functioning of the banking systems and to maintain price stability. That is the core function of the Fed. More recently, the Federal Reserve mandate was expanded to charge them with maintaining price stability and maximum employment. That was an expansion piece that was added.

The Government Accountability Office is also a creation of Congress. GAO is an independent, nonpartisan agency that works for Congress. What is GAO's mission? GAO's mission is to support the Congress in meeting its constitutional responsibilities and to help improve the performance and ensure the accountability of the Federal Government for the benefit of the American people.

In my view, the real issue here is whether you believe the Congress has the right to ask GAO—in many respects, our auditor—to review actions and activities of an institution that we, the Congress, created.

I certainly understand the importance of the Federal Reserve's independence in the execution of monetary policy. I understand and I support that. I understand the importance of not interfering with the operation of the FOMC. That is not what this amendment is attempting to do. That is not my intention. I am confident, as well, it is not the intention of the main sponsors of this amendment. But I do believe it is relevant to know whether the Federal Reserve is operating in a manner that is consistent with its statutory authority. It is relevant to know whether the Federal Reserve is following its own established rules and procedures or whether it is just making it up as it goes along. I do think it is relevant for Congress to know who was involved in decisions to take extraordinary measures by exercising emergency powers, as well as who was and was not consulted before those actions were taken. Those are prudent and proper things for us to know.

I think it is equally important to know whether the policy statements and subsequent minutes of FOMC meetings accurately reflect what went on in those meetings.

Recent news reports surrounding the release of transcripts from 2004 meetings of the Fed contained some serious, distressing information. Those reports revealed that as far as back as 2004, there were significant concerns raised by regional Reserve Bank presidents about an emerging housing bubble that, indeed, did emerge and burst. Did we see any indication of that in the meeting minutes or the policy statements? We did not. And what that tells me is the minutes did not accurately—I will even say they did not directly portray what went on in the meetings. I do not believe that is right.

Disturbingly, the transcripts reveal that the Federal Reserve Bank president from Atlanta warned that:

> A number of folks were expressing growing concern about potential overbuilding and worrisome speculation in the real estate markets, especially in Florida. Entire condo projects and upscale residential lots are being pre-sold before any construction, with buyers freely admitting that they have no intention of occupying the units or building on the land but rather are counting on ''flipping'' the properties—selling them quickly at higher prices.

That is a direct quote.

Disconcertingly, at the same meeting, the former Chairman of the Board of Governors, Alan Greenspan, made the following statement:

> We run the risk, by laying out the pros and cons of a particular argument, of inducing people to join in on the debate, and in this regard it is possible to lose control of a process that only we fully understand.

Let me repeat that quote. This is from former Chairman Greenspan:

> We run the risk, by laying out the pros and cons of a particular argument, of inducing people to join in on the debate, and in this regard it is possible to lose control of a process that only we [the Federal Reserve Board] fully understand.

Now, I serve as the ranking member of the Joint Economic Committee. Senator DEMINT is also a member of our committee. We believe in free markets and a free enterprise system. We recognize the importance of a strong financial system. Yet a fundamental requirement for the orderly operation of free markets is transparency and accurate reporting—information. I think the suggestion that only the Federal Reserve was capable of fully understanding is evidence enough that this amendment is necessary.

Congress needs to demand change and greater accountability so people can have more information. What if the people had known about this debate going on at the Federal Reserve as the housing bubble was developing? How would people have acted? My guess is, they would have acted quite prudently, saying: The Federal Reserve is concerned about this. This is legitimate information. Maybe we should pull back on housing investments. Maybe we should be watching this as well.

I think people can get it; they need the information, though.

While this amendment does not address the issue of the time delay in releasing transcripts, I do believe the current 5 years, which amounts to almost 6 in many cases, is indefensible, between the actual minutes and them being released—5 years between the actual minutes and their being released to the public. In my judgment, that time limit should be reduced to no more than 2 years. Members of this body should have had access to these and other transcripts before we were asked to reconfirm the current Chairman of the Federal Reserve Board of Governors. I would suggest it would have been helpful to have had access to this information before the housing market collapsed and before it turned into a financial crisis.

The American people are mad at Washington. They are mad at the governmental institutions that they view as increasingly unresponsive and unaccountable. Let's take this step in the direction of transparency, accountability, and disclosure of information. The American people have a right to know whether their interests were protected or simply placed on the back shelf. They have a right to know the information.

I urge my colleagues to support this amendment, and I urge the Federal Reserve to work with us to address real concerns about this amendment, rather than trying to defeat it or amend it with the purpose of making it a symbolic and meaningless gesture. Let's remind the Federal Reserve Board of Governors that they are not the only people capable of fully understanding issues on which all of our economic future depends.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. I wish to thank the Senator from Kansas for his remarks and for his strong support from day one for this concept of transparency of the Fed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. COBURN. Mr. President, as we have watched the debate the last 6 days on the financial regulation reform bill, I thought it would be interesting just to raise a few questions. The Congress—both the House and the Senate—created what was called the Financial Inquiry Commission. As a matter of fact, they had a meeting today. The purpose of that Commission—that will turn in their report in December of this year—was to take a thorough and complete look at what happened to us in 2008—the causes, the regulatory failures, the poor incentives—and then make recommendations to the Congress on what we should do.

The question I have for my colleagues is, we have a bill on the floor that has given no credence to the Commission we created, and we are actually, according to the majority leader, going to finish this bill next week without the benefit of that Commission's inquiry. So a couple questions I would ask are, No. 1: Why? Why are we doing that? And, No. 2—by the way, the people on that Commission are learned people with great exposure and great experience in the areas of which we are discussing—Why are we allowing the Commission to continue spending money if we are not going to pay any attention to them? Why don't we just end the Commission, since we have obviously decided what they are going to have to give to us is not of value as we make the decision about what we need to change? I thought that is what we had the Commission for.

So I find it peculiar that in our rush to blame somebody, our rush to take the focus off of where it belongs—by the way, that is right here in the U.S. Congress because 90 percent of what went wrong was our fault—our fault; that is where it lies—in our rush to shield and reflect that away from us, we are going to pass a bill with all sorts of unintended consequences of which we fully do not understand right now. It is a bill that is going to treat the symptoms, not the underlying disease of the financial problems we had. It rings well from a populist standpoint, but in the long run it does a disservice to our country. That does not mean this bill may not hit it 100 percent on what this Commission recommends, but we have no idea what they are going to recommend.

So I think it is a great question for the public to be asking us: Why are we doing that? And why are we continuing a Commission that we obviously are not paying any attention to? One, it was created so we could offload the problem. That is why we created the Commission. We obviously did not care what they thought because we are not going to pay any attention to them. No. 2, we are going to continue to spend money on a Commission that we are not going to value. If we were going to value it, we would at least either give it a mandate to hurry up so we can make appropriate decisions and use their expertise or we would eliminate it.

Now to the bill that is in front of us. What really happened to us. This is my opinion of what happened to us. The Congress created incentives to increase with ease the ability to own a home in this country. Then we created incentives through Fannie Mae and Freddie Mac to do that even greater. Then we created the ability to package and offload what Fannie Mae and Freddie Mac had taken and securitized it.

We wonder why people would take advantage of that. There was not one oversight hearing on the Office of Thrift Supervision, which absolutely failed in terms of loan originators. There was one hearing in 4 years at the SEC that had nothing to do with their oversight of the packaging of these incentives before they became a problem. There was no oversight—significant oversight—on the explosive nature of derivatives trading in this country and around the world. We are so quick to point the finger at the people who took advantage of the incentives we set in motion.

So now what do we have? We have $6 trillion or $8 trillion worth of exposure for the U.S. taxpayer in terms of guaranteed mortgages by the Federal Government through Fannie Mae, Freddie Mac, and FHA, and we are hustling along so none of that ends up getting focused on us. We have a bill on the floor that does not address the core problem of what went wrong.

Here is the core problem of what went wrong: There were no mortgage origination standards that were enforced by the Federal Government, as they took American taxpayers, to guarantee what was going to be an asset. What did we find at the Permanent Subcommittee on Investigations? That in the last year before this, for one company alone that originated a vast majority of the loans in California—Long Beach Mortgage—90 percent of the mortgages were based on fraudulent data.

OTS knew it and did not do anything about it. Why did they not do it? Because they got 16 percent of their revenue from Washington Mutual, who owned Long Beach Mortgage.

So we set up all these systems, we incentivized this system, and now that it blew up in our faces—because we did not look at it, we did not oversight it, we did not do our fiduciary responsibility—we want to be quick and get rid of that blame from us by pointing the finger somewhere else.

We have minimal leverage requirements in this bill. If we are going to create an incentive for people to act badly, at least we ought to put a block somewhere else that will limit the exposure of financial institutions based on capital ratios. We have not done that. We have not accomplished that in this bill. That is something that has to be there. We had companies leveraging to 40 and 50 times their net worth. Yet we are not addressing that issue to a significant extent. It is one small portion of the bill.

Then we are going to take a consumer protection agency—which we created the problems for—and create a massive government bureaucracy that is going to filter all the way down to every small business in this country and isolate that power within one individual who is not accountable to the Congress and not accountable to the President, and we are going to say: You fix it. There will be an unlimited funding stream that is going to be totally out of control that is going to impede and impact the freedom of Americans' ability to make a living in the name of consumer protection.

If you think I am giving a speech to protect the banks, you are wrong. I like them about as much as I like insurance companies. But we have to think about what we are doing, and we ought to be about fixing the real disease. That real disease is us—us not doing oversight, us not being responsible for the legislation we created, and setting up incentives, and then yawn as it goes awry and point our fingers somewhere else.

There is no question we need to change the regulatory structure in this country. But there is something we need to change more than the regulatory structure; that is, the demand on the Congress to start doing its job in terms of oversight. We are quick to whip a bill out when it is politically expedient to do it and create a whipping boy, or several whipping boys, and say we are addressing things. But it is kind of like the pea under the three walnut shells. You never know where the pea is. The reason you never know is because there is not really even a pea there. There was when it started, but it went away. Then it gets put back.

So we are playing the game. We are playing the American people that what we are doing is substantive, and that, in fact, it is going to enhance capital formation, when what we are doing is going to decrease capital formation.

We have one section in this bill that says every small bank in Oklahoma—if they write a mortgage and sell it, forever they have to keep 5 percent of it. Well, if they are a small capitalized bank, guess what they are going to do. They are never going to create another mortgage in Oklahoma. So we are going to concentrate all the mortgages in the big banks in the country. That is why Goldman Sachs loves this bill. That is why Citibank loves the bill. We are not making the big banks smaller; we are making the big banks bigger. We are going to undercut the small and medium-sized banks in the country because we are going to put a 5-percent retention on every mortgage they write, when, in fact, all we would have to say is: If you write a mortgage and you package it and sell it, there is recourse back to you, the originator of the loan; that mortgage, when it becomes nonperforming, comes back to you. That is all we have to do. That does not tie up their capital. That does not limit their incentive to create housing in our own regional markets that is made available with capital in those regional markets.

No, we are going to make the big boys bigger. All the regulation that is in this bill none of the big banks will ever have a problem with. They already have thousands and thousands of staff to handle government regulation. They will not add a person. But every small community bank in this country, every small financial institution in this country, is going to drown in the requirements of this bill.

I know the chairman of the Banking Committee has worked hard to try to bring a forth bill. I know there have been great deliberations with many from our side of the aisle on the bill. But I think we have thrown common sense out the window. The motives are good. The goal—fix the problem—is good. But if we treat the symptoms of this and convince the American people we have fixed it when, in fact, we have not, when we have not eliminated too big to fail—because we are going to make the big banks bigger—what we are going to see is a further decline in confidence.

In the name of fixing things, we are going to be taking massive amounts of freedom away from small businesses in this country. We are going to take discretion away from capital risk that has minimal risk to the country but has every bit of risk to the person lending the capital. We are even going to take away ''sugar daddy'' investors who are the only hope for some ideas—not venture capitalists. We are going to take away the ability for somebody to come in and say: I will invest in 40 percent of your business and give you the capital to try something. We have actually created requirements for that.

As we look at what we are about to do, the American people ought to ask three questions, three very important questions: No. 1, does it fix the problem? No. 2, does it grow the government and require increased spending? And, No. 3, is there anything to make you think—since we were regulating all these industries already—the Congress might oversight the next set of regulations we put out there to fix this problem? I think the answer to that—all three of those questions—is no. I am in a minority, I understand that.

I said previously, I think we ought to change the regulations in this country. I think we also ought to eliminate too big to fail by making those that are too big become so small they won't make a difference if they do fail. We ought to create the market circumstances that would force that to happen. But this bill doesn't do that. This bill won't do that.

So as we go through this rather large bill, which I think has had three or four accepted amendments thus far and which is 1,409 pages long, one of the other questions we ought to be asking is how many Members have read the entire bill. How many Members understand what is in the bill? How many Members can have the capability to anticipate the unintended consequences of what is in the bill? I think we will find the answer to that is zero. Yet we are in a hurry to do this for a political reason.

So I will go back to what I started on. We created the Financial Inquiry Commission. What are we going to do with it? What happens if they come out in December and say everything we did was wrong? Why did we create it? I would love to read back some of the speeches that were given on this floor about why we were creating it, because we had to know what went wrong. Now we have a commission that has been charged to tell us what went wrong, but we are going to ignore them. We are going to pass a bill before they have even completed their hearings.

I think it is no wonder the country has a low level of confidence in our deliberations, because they don't make sense to the average American. They understand the political spin. They understand pinning the tail on the donkey. They understand placing blame so you can deflect it from yourself. They get all that. They see it and they see right through it. But we are creatures of habit.

There are good things in this bill. Let me end on that. The elimination of the Office of Thrift Supervision had to happen. The reason they were ineffective is they got their money from the very people they were supervising and when their biggest customer is doing something wrong, rather than lose some of their revenue, they turn their eye the other way. Consequently, billions and billions and billions of dollars out of Washington Mutual became junk. Most of it was junk to begin with. It is the concept of greed.

Other good things: Changing the rating agencies and what they are accountable for. This bill goes in a direction different than I would have gone, but the point is there needs to be a change. They need to not get paid by the very people who are asking them to rate something they are getting ready to sell, and they ought to be paid by the person who is getting ready to buy what they are getting ready to sell, so the accountability will be there. But we haven't done that.

We recovered, and our recovery from this financial fiasco is because of the resilience of the American people. The price is enormous, with having 14 million people unemployed. That is a tremendous price to pay. The loss in terms of dignity, the loss in terms of the ability to provide for your family, the loss of losing the skill set you had and no longer can find a job to do it is a tremendous price that has been paid. But the American people are resilient. What they don't want to tolerate, however, is a Congress that fails to recognize and continues to repeat mistakes of the past.

We can say, Well, we have been working on this for 6 months. We have. There have been negotiations going on for a long time. My question is, Do we have the answers? Do we know what the answers are? And if the answer to that question is yes, then let's disband the Financial Inquiry Commission right now. Let's not waste those folks' time. Let's not spend another penny of Federal taxpayers' money if we think we already have the answers. We are going to do just as we do on every other program: We are going to create another one and we are going to keep spending on the first one.

Needless to say, I think this bill is fixable. I think we ought to address the real key issues: Fannie Mae and Freddie Mac. Why are we not addressing them? Because we don't want to put out the bucks, the cost to do that. That is why. That is why we are not addressing it. We know the issues.

We have taken an unlimited amount of our kids' money and put it in exposure and we have given an absolute implicit and implied guarantee to both of those organizations. The President in late December took office, and they are now buying back close to $400 billion worth of mortgages from the Treasury—nonperforming mortgages—and our kids are going to pay all that back. It will be 20 or 30 years before any of that property actually reaches the level at which it was sold.

So what is coming next? What is coming next is we are going to mandate principal reduction on mortgages across this country. Who does that impact? What that says is that everybody who paid their mortgage on time and kept up with their payments by making tremendous sacrifices other places, guess what. You are going to get to pay for the mortgage of everybody who didn't through your taxes and through your kids' taxes. You acted responsibly, but what is coming down the pike is we are going to lift the load for those who didn't. You met your obligations. You signed the contract on the bottom line, and those who were less fortunate than you, you now are going to get to pay for them too. That is what is coming. Mark my words. You will hear it before November. That is what is coming through the HAMP, through the 40-percent reduction in the principal amount on many of these mortgages.

So what is going on? We are rushing the financial reform bill that doesn't attack the three major underlying diseases of the financial system, and then right after we pass that, we are going to force principal reductions on hundreds of thousands, if not millions, of mortgages, on which you, the taxpayer, are going to pick up the bill. That is what is coming. We are going to hear that it is not. That is what is coming.

Watch carefully what we do. Watch how we spin things. Watch how we create demons when, in fact, we are the source of the problem. Watch how we point our fingers at others whom we incentivized to take advantage of systems we created and say, Oh, no, we are not culpable at all. Oh, it wasn't us. We did all the oversight hearings. We changed it.

When we saw the writing on the wall, we didn't do any of that. The Congress created this mess, and we are going to continue to act in the same way that is going to create more. Because we are going to create a whole new set of regulations and then we are not going to have the oversight hearings: Are you doing it? Where is the metrics? How do we measure whether you are doing it? Are you, Mr. Bureaucrat, doing what the Congress directed? As a matter of fact, we don't even put in the regulations. We let somebody else write the regulations. We are so knowledgeable that we are getting ready to fix this problem, and besides the fact the Financial Inquiry Commission hasn't said anything to us yet about what the causes are and the potential solutions, but we are not even going to write the regulations, just as we didn't in the health care bill. The Department of HHS is going to write 1,690 regulations on the health care industry in this country. The same thing is going to happen in this bill.

As I say, I hope we can fix the bill because I think we need to make major changes. There are some good things in this bill.

We are in danger of losing what confidence is left of the American people in our actions. We ought to be asking the right questions for the right reasons that shouldn't have anything to do with politics, shouldn't have anything to do with partisanship, and ought to have everything to do with what is the best, right solution for our country in the long run.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have come to speak in support of the Sanders amendment. I am intrigued by my colleague's presentation, so I will respond to a bit of it. There are a couple of areas where we agree and some where I profoundly disagree, but let me start with the agreement.

When my colleague says, If you are too big to fail, you are too big and you ought to get smaller, I fully agree with that. I have an amendment that says if you are too big to fail—judged by the council in this bill that you are too big to fail, at that point you require the breaking up or the paring back of whatever is necessary of that institution to bring it below the level at which its failure would cause a moral jeopardy or an unacceptable risk to this country's entire economy. If we end this process and too big to fail still exists—that is, we have companies that are, in fact, too big to fail—then we will have failed, in my judgment.

Too big to fail means you are too big. We have broken up Standard Oil into 23 pieces and it turns out that 23 pieces are more valuable than the whole. AT&T was broken up. I am not interested in breaking up companies for the sake of it, but I am saying this: We know what has happened.

This chart shows what has happened to the largest financial institutions in this country. It shows that with respect to assets and liabilities, the top six commercial financial institutions in this country have gotten bigger, bigger, bigger, and much, much, much bigger. Does that cause jeopardy to this country? Well, if you have been awake the last few years to watch $700 billion be pledged to avoid a calamitous event to this economy, then you understand that this is too big and something has to be done about it. Create early warnings? No, I don't think so. Stop signs? How about deciding that if you are too big, you are too big, and you have to pare back those portions of your institution that make you too big to fail and a moral hazard to this country that is an unacceptable risk to the future of this economy.

Here is another chart that shows about the same thing. It shows the growth of these institutions going back to 1995. It is relentless, aggressive growth. If we end this without having addressed it, we will not have been able—we won't be able to tell the American people: We took care of too big to fail. So I agree with the Senator from Oklahoma on that point.

Where we disagree is the notion that the problem here is us. Well, I will tell my colleagues what. The ''us'' bears plenty of responsibility, but let me talk about the ''us.'' It wasn't the ''us'' who decided in Countrywide Mortgage, which was the largest single mortgage company in this country, to write liars' loans, to decide to say to people, Hey, you want to get some money from us? We are a big company. We are making a lot of fees. We are paying a lot of money to our executives and we want you to come to us. In fact, I have an ad they ran, Countrywide, the biggest mortgage company in the country. Here is the ad: Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us. We have money for you. Are you a bad risk? Are you a bad person? You can't pay your bills? Come to us.

It wasn't the Congress that did that, I would say to my friend. This was Countrywide Mortgage. By the way, the guy who ran this organization got off with $200 million. So he is now under criminal investigation. But don't suggest to me that somehow that was the responsibility of somebody other than the guy running the company that puts up ads such as: Zoom Credit. It says: You have been bankrupt, slow credit, no credit, can't pay? Who cares? That is what was advertised to the American people. That wasn't somebody in this Chamber going out and saying, Hey, how about letting us give you a loan if you have bad credit. Was it somebody in this Chamber who decided we are going to create credit default swaps? That is like saying ''the devil made me do it'' from the old TV show. No, no, no. It was a group of people who are high fliers, hotshots, wearing silk shirts and monogrammed sleeves, and they go out and create all of these exotic instruments such as credit default swaps, and they weren't enough; they have to do synthetic or naked default swaps with no insurable interest on the other side of the transaction. It was simply wagering. It had nothing to do with investment. It wasn't somebody in this Chamber who said please do this. It was the most unbelievable greed and avarice I have ever seen in the history of this country by a lot of folks. It created big institutions—I am not saying everybody did it, but enough did it to imperil this country's economy and to require emergency action to, as the Treasury Secretary then said, ''save the American economy.''

All this was going on. Everybody was having a carnival and making lots of money. In 2008, Wall Street had a net loss of $35 billion and paid bonuses of $16 billion. I got a master's degree in business. I went to business school. There is no place that teaches that—to go lose a bunch of money and then pay huge bonuses. This was a carnival of greed that went on in this country and steered this country right into a ditch.

When my colleagues say it is government that did that, I am sorry, that is flatout wrong. What government did—and they did it for a number of years in the last decade—is they hired a bunch—and the previous administration is especially responsible—of regulators who didn't like government and didn't want to regulate. One of the key people who came to this town in a key position of regulatory responsibility said: Hey, this is a new day. This is a business-friendly place. Understand that. We are going to be willfully blind here for a number of years. So do what you want; we won't watch and we don't care.

So the responsibility for regulatory authority is not in this Chamber.

I am not somebody who comes here to blame previous administrations very often, but when the Bush administration came to office—about the same time that Gramm-Leach-Bliley, by the way, with the support of the Clinton administration, repealed Glass-Steagall and said you can create big financial holding companies as big as you want and you can merge investment banks with commercial banks and security sales, and you can do it all—a one-stop financial shop. It will be great, and we will call it modern. About the time that passed—over my objections, as I was one of eight Senators who voted no, and I was out here six, eight times opposing it—about that time, we had a new administration come in and say: We are going to put regulators in place who have no interest in watching what you do, so do what you want. They put out naked credit default swaps and trillions of dollars for them. Who cares? If you want to increase your leverage from 12 times, to 20 times, to 30 times your capital, fine. We will have a meeting in the basement of the SEC, and we will, just like that, approve you to be able to increase your leverage to 30 times your capital. And it will hardly be reported by anybody because we are not watching anything. They were blind regulators—dead blind. Unbelievable.

Don't blame this on someone else. We can blame it on bad legislation a decade ago. That is fair. Those who were making bad loans and taking big checks to the bank and filling it with millions of dollars were doing it because they were greedy and nobody was willing to stop them. That avalanche of greed built into a bubble of speculation that really injured this country and nearly ran it off a cliff.

By the way, at the same time all of this was happening in the last 15 years or so, the financial institutions decided they were going to securitize everything. Doesn't matter; find some debt, and we have people who can roll it into a security. Once they do that, they can sell it three, four times, to an investment bank, to a hedge fund, you name it, and they can get a rating agency—because the investment banks pay the costs of the rating agencies that rate their securities, which is a pretty big conflict of interest—to help roll these forward, and nobody has any skin in the game.

My colleague talks about how unfair it would be to ask somebody to save at least a portion of a loan they are providing. Do you know what? The only way you have proper underwriting of loans in this country is if you sit across the table from somebody who wants to get a loan and look at their credit reports and determine if they are eligible. The only way you ever ensure that happens the right way is to have that kind of underwriting, and you would do that if you are going to have some continuing risk.

But if you are going to give a $750,000 loan to somebody who makes $17,000 a year—and it happened, by the way—a liar's loan, requiring no documentation, with no interest or principal paid because he put it all on the back side—if you can sell that in a security to somebody else and you have no further risk, you get your money free and clear. That is what was going on at every single level. It was just the most unbelievable, irresponsible lack of regulation, perhaps, in the history of this country.

I want to say that the government has made plenty of mistakes, but don't blame this Chamber or people who were elected to the Senate for the bad behavior of somebody who takes $200 million away from the biggest mortgage finance company in this country and was selling liar's loans and advertising that if you have bad credit, no credit, slow credit, and bankruptcy, come to us, we are going to give you money. Don't blame that on somebody else. Put that blame where it rests—the unbelievable greed among the people who should have known better and should not have been able to do it in the first place because the regulators should have been all over them in a moment, saying: You cannot do it. That didn't happen.

This demonstrates the need for effective regulation. The free market system works, but when people try to subvert it, when people commit fouls in the free market system, it needs a referee with a whistle and a striped shirt. That was missing in the last decade.

Mr. President, one final point. Part of this argument is excusing criminal behavior because there wasn't a cop on the beat. Don't excuse the criminal behavior. We need cops on the beat. We need legislation that will make sure we close the loopholes that exist. We need to legislate soberly and thoughtfully and give the American people some notion that this behavior cannot happen again.

By the way, I think the way we do that is to make certain you cannot be too big to fail. By what justification should the major financial companies of this country continue this kind of concentration and escalation of size in a manner that jeopardizes this country should they fail? By what justification should we allow that to continue? The answer is that it should not.

There are two amendments to address that I am aware of—one by Senators BROWN and KAUFMAN, which creates a numerical limit on size, and I fully support. The other one, which I prefer because it has my name on it, is to flatout break up firms that have gotten too big to fail to the point where they are not too big to fail. That is the most effective way, in my judgment, to do this.

I will speak ever so briefly about the Sanders amendment. I got sidetracked by my colleague from Oklahoma, as is so often the case.

My colleague from Vermont has offered a piece of legislation that I think has great merit. Let me tell you what it doesn't do. It does not, as those who fear the amendment say, invoke the tentacles of the U.S. Congress in the construction of monetary policy. That area belongs to the Federal Reserve Board.

The Federal Reserve Board is a creature of legislation that Congress created. If you went back and read the debate, the country was assured that this was not creating a strong central bank. There were just lead pipe assurances to that, but, of course, that turned out not to be the case. Nonetheless, the Federal Reserve Board creates monetary policy, and there is a thought—and I agree with it—that we don't want monetary policy created on the floor of the Senate. We don't want to intrude on the creation or development of monetary policy. We do fiscal policy, the taxing and spending side. The monetary side is the Federal Reserve Board's terrain.

But the Federal Reserve Board ought not be unaccountable to anybody for anything. The Federal Reserve Board, it seems to me, deserves, No. 1, to be audited properly—a Government Accountability Office audit—which the Sanders amendment would require. And I know the Fed is having an apoplectic seizure thinking that maybe this amendment will pass. You know what. It is the right thing to do, to say at long, long last, there should be an audit of the Federal Reserve Board. I am not talking about auditing monetary policy but what it does generally. It is necessary, and I support this and think it is the right policy.

No. 2, this legislation does what I and many others have been pushing the Fed for, for some while. Last July of 2009, I had a letter signed by 10 of my colleagues to Chairman Bernanke saying: You have now used your emergency powers for the first time in U.S. history to open your loan window to investment banks, as never before in the history of our country. Serious financial problems, you say? Open the loan window and come and get some money. So we write and say: OK, you did that on an emergency basis for the first time in our history. What was the result? Who got the money? What were the terms and the conditions?

The American people deserved to have that information. I wrote again on March 19 of this year. On both occasions, we received letters from Chairman Bernanke that were polite, thoughtful, but that said: You know what. We don't intend to provide you or the American people information about what happened at our loan window. We don't intend to talk about the loans we gave to investment banks for the first time in history.

I wonder—and this is idle curiosity—did we have investment banks show up at this window and get near zero interest rate loans and then invest them back into Treasury bonds? How much money did they make on that transaction? I know many of these organizations—the largest investment banks—are now making record profits. But it is not as a result of loaning money to businesses in this country that need the lending; it is by trading securities—once again, right back in the same trench.

This legislation that my colleague, Senator SANDERS, has offered is legislation that will put in law a requirement that the Federal Reserve Board disclose the activities, in a certain period of time, of who received the lending from the Federal Reserve Board, what the conditions were, and what the amounts of funding were.

The Chairman of the Fed, who said this might make it very difficult and it will undermine this and that, undermine these programs, publicly releasing names—look, two Federal courts have required the Federal Reserve Board to do this. Two Federal courts—the district court and the appellate court—have said the Federal Reserve Board does not have the authority to withhold this information. The Federal Reserve Board has once again said: It doesn't matter, we intend to appeal again. They, apparently, intend to keep this tied up in the court system as long as they can. This amendment in this piece of legislation will say to the Federal Reserve Board: You cannot do that. The law requires you to disclose to the American people what you have done.

I come here to say I think this is a good bill. I had introduced a separate amendment on the disclosure by the Fed, but if we pass the Sanders amendment, that will take care of my amendment. Some people talked earlier about duplicates. Mine will be taken care of if we pass the larger amendment offered by Senator SANDERS.

I support the amendment. I know a good many of my colleagues will too. It has been a long time to try to get an audit of the Federal Reserve Board—not an audit of the monetary policy but an audit of the Federal Reserve Board. But if we do that, this will be a significant step forward for those of us who believe that is necessary and important for the country.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from South Carolina.

Mr. DEMINT. Mr. President, I join Senator DORGAN and Senator SANDERS in the amendment to audit the Federal Reserve.

Let me begin with a perspective on what happened in the stock market today. Clearly, someone got it wrong, and it created a domino effect of one thing falling after another, and before we knew it, the stock market was down 1,000 points. Fortunately, it climbed back up before it closed today.

It reminds us how volatile, how vulnerable we are in a world where so many systems are involved with our financial system.

It is good Congress is looking at financial reform. I only regret we are not dealing with the real causes of our financial crisis.

Wall Street is clearly jittery. We can see that from the stock market today. Everyone is waiting for the dominos to fall. We see what is happening in Greece, one country that continued to spend more than it was bringing in until it went bankrupt. Unfortunately, the American people are on the hook for yet another bailout, not even a bailout in this country but billions of American tax dollars are headed for Greece right now.

As other European countries head toward bankruptcy, last year in this Congress we created another credit line for the International Monetary Fund to be drawn down. The real irony is, we are borrowing money from countries such as China in order to bail out other countries in the world at a time when the United States is carrying $13 trillion of debt and projections of tens of trillions of more dollars in the future. It is clearly unsustainable.

The stock market and investors have a reason to be jittery, and Americans have a reason to be angry. We saw what the failure of large government organizations such as Fannie Mae did and how it cost Americans trillions of dollars. People who had been saving and investing all their lives found out almost overnight that the system they counted on and that we were supposed to oversee was not what they thought it was, and suddenly wealth was gone.

If Fannie Mae could do that much damage to our country, that is small in comparison to what would happen if the Federal Reserve does it wrong.

The Constitution gives Congress the responsibility for our monetary policy. Congress, years ago, delegated that to an independent agency we call the Federal Reserve. But we are still responsible for monetary policy. If something is done wrong with that policy, all we worked for in this country, everyone's savings and investments, everyone's wealth, not only in this country but because we are the reserve currency for the world, the whole economic system of the world is resting on top of what the Federal Reserve does.

The fact is, while it is our responsibility to oversee monetary policy, we do not know what the Federal Reserve is doing. Keep in mind, we were assured only months before Fannie Mae and Freddie Mac collapsed—and, by the way, we bailed them out and Freddie Mac for another $10 billion this week—only months before they collapsed, we were told by Chairman Bernanke at the Federal Reserve and many other economic experts that there was no problem. But there was a problem. The real problem was we did not know it, and that was a company created by this Congress. It was our responsibility to oversee it, and we did not carry out our responsibility.

We need an independent Federal Reserve. We do not need political manipulation and second-guessing of our monetary policy. But we do not need a secret Federal Reserve. We have to know what they are doing if we are going to be responsible for what they are doing. It is not going to be enough if they do something wrong and we point our finger at them and say it was their fault because it is our responsibility.

For years, the Federal Reserve has been avoiding any kind of audit, any kind of accountability, any kind of transparency. Every time we ask for any type of disclosure, they say we are violating their independence. We are not violating their independence by this amendment proposed by Senator SANDERS. All we are doing is uncloaking the secrecy that exists within the Federal Reserve.

It is important to know what we do know. We know the Federal Reserve has bailed out Bear Stearns and AIG. The taxpayers are stuck holding failed bets on everything from toxic subprime mortgages to strip malls and hotels. Thanks to the bailouts, taxpayers now own stakes in bankrupt Hilton hotels in Malaysia, Russia, and Singapore. I am not sure that is what the Congress had in mind when they started the Federal Reserve.

The Federal Reserve owns part of the Civic Opera building in Chicago and the Crossroads Mall in Oklahoma City. I thought it was bad when the Fed was printing money to keep up the government's shopping spree, but I never expected they would buy a mall to go shopping in.

They say it is over when the fat lady sings. Well, now the Fed has an opera house ready for her singing.

Americans deserve to know if the Federal Reserve is being honest with the Congress and with the American people. We know what they say behind closed doors does not square with what they say publicly.

Recently released transcripts show, in 2004, members of the Federal Reserve publicly downplayed specific concerns they discussed internally about the coming housing crisis. They knew we had a problem. At that time, Chairman Alan Greenspan said, if they were to encourage the public to talk about it ''it's possible to lose control of a process that only we fully understand.'' Meanwhile, they were telling the Congress and the public everything was fine.

By doing that, they cost millions of Americans a lifetime of savings, and they are still struggling. Millions of people are out of work because of mismanagement by the Federal Reserve. Yet they seem to think they require no supervision, no accountability, no transparency. We need to end that with this amendment today.

Within 30 days of the President signing this amendment that has been proposed, the Federal Reserve will have to tell us who got all this bailout money, how much they got and the reasoning for giving it and what terms of repayment there are. It is a pretty simple request. True financial reform must include a full audit of the Federal Reserve and a breakup and a winddown of Freddie Mac and Fannie Mae. But the people who run the government are not willing to hold the government institutions responsible.

Those who understand what happened in this financial crisis know that the easy money policy of the Federal Reserve, Fannie Mae and Freddie Mac buying subprime mortgages and securitizing them and selling them all over the world were a large part of the meltdown of our financial system. Yet this financial reform bill we are talking about does not even address the real causes of our financial meltdown.

One thing we can do if we adopt this amendment is make sure there is more transparency, more accountability at the Federal Reserve.

As I already mentioned yesterday, Freddie Mac posted an $8 billion loss. That is now fully owned by the Federal Government. The Federal Government is clearly mismanaging Freddie Mac, and they asked for another $10 billion bailout from the taxpayers. This time that does not have to go through Congress. President Obama has taken the caps off anything that can go to these bankrupt companies. Billions of dollars are going to flow from taxpayers directly to these government-owned entities.

Freddie Mac and Fannie Mae together have lost at least $126.9 billion so far. It is pretty amazing in a time when this country is overcome with debt. There is no end in sight. There is no cap on how much taxpayers can bail them out. Yet they are not even mentioned in this financial reform bill. We heard about greed on Wall Street, but we have not even addressed the greed within the government and within the government agencies.

The Democratic House Financial Services chairman, BARNEY FRANK, does not think these government-run institutions are good candidates for reform. He wrote a memo to the White House saying they were ''being managed responsibly and aren't doing any further economic damage.'' Fortunately, Senator MCCAIN has an amendment to address this issue, and I hope it is adopted. But if there is one place the blame can be placed for this financial meltdown, it comes back to Fannie Mae and Freddie Mac.

Wall Street certainly deserves a lot of the blame for the financial crisis because they took advantage of a lot of the mismanagement in government to their own benefit. But the Federal Reserve, Freddie Mac, and Fannie Mae also deserve a lot of the blame, and they should be addressed as well.

The Sanders amendment at least begins the process in letting us know what the Federal Reserve is doing. The audit-the-Fed amendment has more than 300 cosponsors in the House and 32 in the Senate. It is supported by a broad spectrum of political groups from FreedomWorks all the way to very liberal groups. Within the Senate, if America wants bipartisan activity, it could not be more bipartisan than BERNIE SANDERS and JIM DEMINT.

I encourage my colleagues to support this amendment. Let's reform not only the financial system but our own house, and that includes the Federal Reserve.

I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Virginia.

Mr. WARNER. Madam President, I rise to speak very briefly, following the comments of my colleague from South Carolina on the pending amendment that I know has received broad bipartisan support. I also wish to comment on what happened in the market today.

The stock market was down about 347 points. But what was more telling was the stock market, at one point today, approached a loss of 1,000 points which, if it had held, would have been the largest single-day loss in modern history.

There were a number of causes. My colleague mentioned some clear concerns about the crisis in Greece. What it appears to be in terms of real-time reporting going on right now is that part of this precipitous drop took place because it appears there was a technology glitch on an order put in that had no backguard or safeguards to stop it.

I am going to quickly go into an area that is actually the expertise of Senator KAUFMAN. I know Senator MCCAIN's amendment will be up in a moment.

I have heard, while sitting in that chair, my friend, the Senator from Delaware, come to this floor time and again to talk about the challenges that have been created in the marketplace with the increased use of high-speed trading, flash trading, colocation, sponsored access—a whole series of technical terms but terms that we may have seen the first inkling today with what happens when these tools of technology do not work the way they are supposed to.

I ask my friend, the Senator from Delaware, who has spent time on this issue much more than I, today we saw—and I have become a believer and I know the SEC has started moving forward on the flash trading issue, but there is a series of other activities that as we go through this financial reform bill, we at least need to have more facts. I believe the SEC needs to have the resources to keep up with the marketplace. We saw a living, breathing real-time example of the potential catastrophe that could take place if we do not have the ability to adequately use the technology and have safeguards and realize how some of these firms are using this technology to get an advantage over the everyday Main Street investor.

Mr. KAUFMAN. Madam President, the Senator from Virginia right from the beginning has been sympathetic. Because of his great knowledge on Wall Street and finance, he has been a great source of encouragement to me. I have spoken on this floor repeatedly, and this is not a surprise. If this turns out to be the worst case of what we are talking about—we do not know.

What happened over the years is that we basically went from a market that was a floor-based market to a market that was digitalized and decimalized, where we began to have tenths using decimals as opposed to eighths. What happened is that markets, computer firms—if you want to read a great story, a book called ''The Quants,'' by Scott Patterson. People came into the market and began to develop these high-speed computers. Human beings were no longer doing the trading, computers were. They developed these algorithms. It ran automatically. It grew and grew, and now it is something like—they went from 30 percent to 70 percent of all the trades on our markets are in this high-frequency trading, using these high speed computers. There is no way to know what is going on. They trade 2,000 to 3,000 shares in a second. No one knows what is happening in the exchanges when this trading is going on. No one knows.

The Securities and Exchange Commission has said—after repeated requests—that we are going to go look at market structure. This is months ago. They say we are going to look into this. Now they are having a group look into it. Right now, there is no way to know what is happening in this marketplace. All we have been requesting from the Securities and Exchange Commission is that they take a look at what is happening.

Remember, you have 2,000 to 3,000 trades a second. The only records that are kept are of the actual trades. But 90 percent—to let you know how complicated this is—90 percent of the trades are canceled. Why are they doing that? There are a lot of allegations about why they are doing this and what is going on, but right now we have this gigantic business—70 percent of our trading—and we have no idea what is going on.

I will say one final thing, because it reflects on this bill. What will happen if we allow our banks to be mingled with our investment banks and don't put some kind of cap on it? That is my big concern. Investment banks are into high risk things, and that is where most of these things are taking place. If you go back and look at derivatives, what we had under derivatives is a whole lot of money. Nobody argues, derivatives are gigantic. This is now gigantic. You had a lot of change. We went from very few derivatives to massive numbers of them. We went from 30 to 70 percent of all our trades being high frequency trading. We have no transparency as we have with derivatives. We didn't know what was going on in the derivatives market. We had no regulation, because you don't know what the trades are. And what happened? We had this gigantic meltdown.

I am saying that I totally agree with the Senator from Virginia. We have a very dangerous situation.

Mr. WARNER. I will wrap up very quickly.

We saw today, for example, in a matter of a moment or two, Procter & Gamble—one of America's premier companies—fall from $60 to $39. We saw another company fall from around $30 to a penny stock. This was not the result of a market, this was the result of, I believe, some lack of oversight. There is nobody in this Chamber who is more of an advocate of technology and the powerful tool that technology can be, but we are seeing what the Senator from Delaware has been an early leader on. I have listened to his speeches for months, and everything in my gut says he is onto something here.

I have asked the chairman of the Banking Committee to make sure as this piece of legislation proceeds that we make sure that whether it is a study, whether it is an appropriate question of the SEC, this high speed, high frequency trading, colocation, sponsored access, all of these series of tools that seem to give the big guys a slightly bigger advantage over the everyday investor, be an appropriate subject of some additional study.

We may disagree about how we go into the last crisis, but I believe the Senator from Delaware is potentially on to what could be the next crisis. I think we perhaps saw a little window into that possibility today when the stock market got close, for moments in time—based on what appeared to be technology errors and high speed trading—to perhaps the single biggest loss in modern American history—a thousand point loss for a moment in time this afternoon.

I know the Senator from Arizona wants to talk about his issues as well. But there was a warning sign shot across the bow today, and if we don't deal with this as part of the mix, I think we are not acting appropriately.

Mr. KAUFMAN. I will yield, but this is a case where I think we have to look into this and see what is going on.

I yield for the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I want to discuss amendment No. 3839. This amendment is designed to end the taxpayer-backed conservatorship of Fannie Mae and Freddie Mac by putting in place an orderly transition period and eventually requiring them to operate without government subsidies on a level playing field with their private sector competitors.

Events of the last 2 years have made it clear that never again can we allow the taxpayer to be responsible for poorly managed financial entities which gamble away billions of dollars. Fannie Mae and Freddie Mac are synonomous with mismanagement and waste and have become the face of too big to fail. The time has come to end Fannie Mae and Freddie Mac's taxpayer-backed free ride and require them to operate on a level playing field.

I want to quote from an AP story yesterday entitled: ''Freddie Mac seeks $10.6B in aid after 1Q loss.'' Freddie Mac is asking for $10.6 billion in additional Federal aid after posting a big loss in the first 3 months of the year. It is another sign that the taxpayer bill for stabilizing the housing market will keep mounting. The McLean, VA-based mortgage finance company has been effectively owned by the government after nearly collapsing in September of 2008. The new request will bring the total tab for rescuing Freddie Mac to $61.3 billion. Freddie Mac says it lost $8 billion, or $2.45 a share, in the January-March period. That takes into account $1.3 billion in dividends paid to the Treasury Department. It compares with the loss of $10.4 billion or $3.18 a share, in the year-ago period.

So the beat goes on and the drainage goes on. Here on this chart we have the money yet to be repaid by institutions that received $10 billion or more in taxpayer bailouts. Obviously, these organizations have paid back. GMAC still has $16 billion they owe the taxpayer; Citigroup, $25 billion; GM—despite their PR stunt the other day, where they say they paid back, with TARP money, they paid the taxpayers with taxpayer money—$43.7 billion; AIG, $69.8 billion; and, of course, Fannie and Freddie, $125.9 billion plus.

I wish to begin today by calling my colleagues' attention to an editorial in this morning's Wall Street Journal, which states:

Fan and Fred owned or guaranteed $5 trillion in mortgages and mortgage-backed securities when they collapsed in September of 2008. Reforming the financial system without fixing Fannie and Freddie is like declaring a war on terror and ignoring al-Qaida.

I want to repeat that sentence for the benefit of my colleagues. This is from the Wall Street Journal this morning.

Reforming the financial system without fixing Fannie and Freddie is like declaring war on terror and ignoring al-Qaida.

Unreformed, they are sure to kill taxpayers again. Only yesterday, Freddie said it lost $8 billion in the first quarter, requested another $10.6 billion from Uncle Sam, and warned that it would need more in the future. This comes on top of the $126.9 billion that Fan and Fred had already lost through the end of 2009. The duo are by far the biggest losers of the entire financial panic—bigger than AIG, Citigroup and the rest.

From the 2008 meltdown through 2020, the toxic twins will cost taxpayers close to $380 billion, according to the Congressional Budget Office's cautious estimate.

The numbers, I say to my colleagues, are staggering—staggering.

The Obama administration won't even put the companies on budget for fear of the deficit impact, but it realizes the problem because last Christmas Eve—

Strangely enough on Christmas Eve—

. . . it raised the $400 billion cap on their potential taxpayer losses to . . . infinity. Moreover, these taxpayer losses understate the financial destruction wrought by Fan and Fred. By concealing how much they were gambling on risky subprime and Alt-A mortgages, the companies sent bogus signals on the size of these markets and distorted decision-making throughout the system. Their implicit government guarantee also let them sell mortgage-backed securities around the world, attracting capital to U.S. housing and thus turbocharging the mania.

Specifically, this amendment does several things:

It provides for a finite end to the current conservatorship period for both government-sponsored enterprises—GSEs—at 2 years of date from the enactment. The Federal Housing Finance Agency has an option to extend conservatorship for 6 months if the FHFA Director determines and notifies Congress that adverse market conditions exist. If at the end of conservatorship a GSE is not financially viable, the FHFA must place that GSE in receivership. If the GSE is financially viable, then it would be allowed to reenter the market under new operating restrictions.

It provides for the following changes to existing operating structure:

It calls for the repeal of the affordable housing goals mandates for the GSEs.

It calls for new limits for mortgage assets held on its books of no more than 95 percent of mortgage assets owned on December 31 of the prior year, reduced an additional 25 percent by the end of year 1, reduced an additional 25 percent by the end of year 2, and reduced to $250 billion by the end of year 3.

It strengthens capital standards and allows them to be increased by the FHFA as necessary.

It calls for the repeal of the temporary increases in conforming loan limit and high cost area increases, and a return to the $417,000 conforming loan limit for the first year, subject to annual adjustments by FHFA.

It provides for a prohibition on the purchase of mortgages exceeding the median home price for that area.

It calls for a minimum downpayment requirement of at least 5 percent for all new loans purchased by the GSE, increasing to 7.5 percent in the second year, and 10 percent in the third year.

It repeals the GSE exemption from having to pay State and local taxes.

I wonder how many of my colleagues and fellow citizens knew that Fannie and Freddie did not have to pay State and local taxes.

It calls for a repeal of the exemption allowing GSE securities to avoid full SEC registration.

In other words, given their enormous clout here in the Congress, Fannie and Freddie were able to have an exemption from their securities falling under SEC registration.

It calls for an assessment of fees on GSEs to recoup full value of the benefit due to guarantee provided by the Federal Government. And GAO will conduct a study to determine current value of government guarantee.

The amendment establishes a 3-year period after the end of conservatorship for GSEs to operate under new operating restrictions until their government charter expires. Upon charter expiration, it provides for a 10-year period with the creation of a separate holding corporation and a dissolution trust fund for any remaining mortgages or debt obligations held by the GSE.

It establishes a Senate-confirmed special inspector general within the Government Accountability Office with responsibility for investigating and reporting to Congress on decisions made with respect to the conservatorships of Fannie Mae and Freddie Mac. The SIG would provide quarterly reports to Congress.

While GSEs remain in conservatorship, it reestablishes the Federal funding limit of $200 billion per institution for the GSEs and requires the GSEs to reduce their portfolio holdings by 10 percent of the prior year's holdings. It also establishes an approval process for any further agreements that put the taxpayers at risk.

It places Fannie Mae and Freddie Mac as part of the Federal budget as long as either institution is under a conservatorship or receivership.

Again, my colleagues might be interested that Fannie Mae and Freddie Mac, and what we are doing with them now, is not part of the Federal budget—remarkable.

It requires the FHFA to establish minimum prudent underwriting standards for mortgage loans eligible for government-sponsored entities purchase. Minimum requirements will include verification and documentation of income and assets relied upon to qualify the borrower for the mortgage loan and determination of borrower's ability to repay the mortgage loan.

I might add that the Congressional Budget Office has indicated this amendment would save the taxpayers several billions of dollars annually. I repeat, the Congressional Budget Office states—and, by the way, it has not been given any phony assumptions such as a doc fix—this amendment would save the taxpayers several billions of dollars annually.

During the debate on this financial reform bill, we will continue to hear a lot about how the U.S. Government will never again allow a financial institution to become too big to fail. We will hear continuous calls for more regulation to ensure that taxpayers are never again placed at such tremendous risk.

Sadly, and I say very sadly, the underlying bill completely ignores the elephant in the room because no other entity's failure would be as disastrous to our economy as Fannie Mae's and Freddie Mac's. Yet this bill does not address them at all.

In a recent Opinion Piece in the Wall Street Journal, Robert Wilmers wrote:

Congress may be making progress crafting new regulations for the financial-services industry, but it has yet to begin reforming two institutions that played a key role in the 2008 credit crisis—Fannie Mae and Freddie Mac.

We cannot reform these government-sponsored enterprises unless we fully confront the extent to which their outrageous behavior and reckless business practices have affected the entire commercial banking sector and the U.S. economy as a whole.

At the end of 2009, their total debt outstanding—either held directly on their balance sheets or as guarantees on mortgage securities they'd sold to investors—was $8.1 trillion. That compares to $7.8 trillion in total marketable debt outstanding for the entire U.S. government. The debt has the implicit guarantee of the federal government but is not reflected on the national balance sheet.

The public has focused more on taxpayer bailouts of banks, auto makers and insurance companies. But the scale of the rescue required in September 2008 when Fannie and Freddie were forced into conservatorship—their version of bankruptcy—was staggering. To date, the federal government has been forced to pump $126 billion into Fannie and Freddie. That's far more than AIG, which absorbed $70 billion of government largess, and General Motors and Chrysler, which shared $77 billion. Banks received $205 billion, of which $136 billion has been repaid.

Fannie and Freddie continue to operate deeply in the red, with no end in sight. The Congressional Budget Office estimated that if their operating costs and subsidies were included in our accounting of the overall federal deficit—as properly they should be—the 2009 deficit would be greater by $291 billion.

The op-ed continues:

All this happened in the name of the ''American Dream'' of home ownership. But there's no evidence Fannie and Freddie helped much, if at all, to make this dream come true. Despite all their initiatives since the early 1970s, shortly after they were incorporated as private corporations protected by government charters, the percentage of American households owning homes has increased by merely four percentage points to 67%.

According to a 2004 Congressional Budget Office study, the two GSEs enjoyed $23 billion in subsidies in 2003—primarily in the form of lower borrowing costs and exemption from state and local taxation. But they passed on only $13 billion to home buyers. Nevertheless, one former Fannie Mae CEO, Franklin Raines, received $91 million in compensation from 1998 through 2003.

Amazing.

In 2006, the top five Fannie Mae executives shared $34 million in compensation, while their counterparts at Freddie Mac shared $35 million. In 2009, even after the financial crash and as these two GSEs fell deeper into the red, the top five executives at Fannie Mae received $19 million in compensation and the CEO earned $6 million.

This is not private enterprise—it's crony capitalism, in which public subsidies are turned into private riches. From 2001 through 2006, Fannie and Freddie spent $123 million to lobby Congress—the second-highest lobbying total in the country. That lobbying was complemented by sizable direct political contributions to members of Congress.

Changing this terrible situation will not be easy. The mortgage market has come to be structured around Fannie and Freddie and powerful interests are allied with the status quo.

Nonetheless, Congress must get to work on the reform of Fannie Mae and Freddie Mac. A healthy housing market, a healthy financial system and even the bond rating of the federal government depend on it.

There have been countless warnings about the mismanagement of both Fannie and Freddie over the years. In May of 2006, after a 27-month investigation into the corrupt corporate culture and accounting practices at Fannie Mae, the Office of Federal Housing Enterprise Oversight—OFHEO—the Federal regulator charged with overseeing Fannie Mae—issued a blistering, 348-page report which stated that:

Fannie Mae senior management promoted an image of the Enterprise as one of the lowest-risk financial institutions in the world and as ''best in class'' in terms of risk management, financial reporting, internal control, and corporate governance. The findings in this report show that risks at Fannie Mae were greatly understated and that the image was false.

During the period covered by this report—1998 to mid-2004—Fannie Mae reported extremely smooth profit growth and hit announced targets for earnings per share precisely each quarter. Those achievements were illusions deliberately and systematically created by the Enterprise's senior management with the aid of inappropriate accounting and improper earnings management.

A large number of Fannie Mae's accounting policies and practices did not comply with Generally Accepted Accounting Principles (GAAP). The Enterprise also had serious problems of internal control, financial reporting, and corporate governance. Those errors resulted in Fannie Mae overstating reported income and capital by a currently estimated $10.6 billion.

By deliberately and intentionally manipulating accounting to hit earnings targets, senior management maximized the bonuses and other executive compensation they received, at the expense of shareholders. Earnings management made a significant contribution to the compensation of Fannie Mae Chairman and CEO Franklin Raines, which totaled over $90 million from 1998 through 2003. Of that total, over $52 million was directly tied to achieving earnings per share targets.

Fannie Mae consistently took a significant amount of interest rate risk and, when interest rates fell in 2002, incurred billions of dollars in economic losses. The Enterprise also had large operational and reputational risk exposures.

Fannie Mae's Board of Directors contributed to those problems by failing to be sufficiently informed and to act independently of its chairman, Franklin Raines, and other senior executives; by failing to exercise the requisite oversight over the Enterprise's operations; and by failing to discover or ensure the correction of a wide variety of unsafe and unsound practices.

The Board's failures continued in the wake of revelations of accounting problems and improper earnings management at Freddie Mac and other high profile firms, the initiation of OFHEO's special examination, and credible allegations of improper earnings management made by an employee of the Enterprise's Office of the Controller.

Senior management did not make investments in accounting systems, computer systems, other infrastructure, and staffing needed to support a sound internal control system, proper accounting, and GAAP-consistent financial reporting. Those failures came at a time when Fannie Mae faced many operational challenges related to its rapid growth and changing accounting and legal requirements.

Fannie Mae senior management sought to interfere with OFHEO's special examination by diretstOg the Enterprise's lobbyists to use their ties to Congressional staff to No. 1, generate a Congressional request for the Inspector General of the Department of Housing and Urban Development (HUD) to investigate OFHEO's conduct of that examination and No. 2, insert into an appropriations bill language that would reduce the agency's appropriations until the Director of OFHEO was replaced.

OFHEO has directed and will continue to direct Fannie Mae to take remedial actions to enhance the safe and sound operation of the Enterprise going forward. OFHEO staff recommends actions to enhance the goal of maintaining the safety and soundness of Fannie Mae.

A remarkable report.

So what steps were taken by the Congress to punish Fannie Mae for such deliberate manipulation and outright corruption? Basically: NONE. According to published reports—including

Fannie Mae's own news release—Daniel Mudd, the president and CEO of Fannie Mae at the time, was awarded over $14.4 million in 2006—the year this report was issued, and over $12.2 million in 2007 in salary, bonuses and stock. And Fannie Mae continued their risky behavior—successfully posting profits of $4.1 billion in 2006.

The blatant corruption reported by the OFHEO led me to come to the Senate floor back in 2006 and call for the immediate consideration of GSE regulatory reform legislation. At the time I said:

For years I have been concerned about the regulatory structure that governs Fannie Mae and Freddie Mac and the sheer magnitude of these companies and the role they play in the housing market. OFHEO's report this week does nothing to ease these concerns. In fact, the report does quite the contrary. OFHEO's report solidifies my view that the GSEs need to be reformed without delay.

If Congress does not act, American taxpayers will continue to be exposed to the enormous risk that Fannie Mae and Freddie Mac pose to the housing market, the overall financial system, and the economy as a whole.

Additionally, also in May, 2006, I joined 19 of my colleagues in writing to the majority leader urging him to bring the Federal Housing Enterprise Regulatory Reform Act to the floor for debate.

I ask unanimous consent this letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, May 5, 2006.

Hon. WILLIAM H. FRIST, MD,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. RICHARD C. SHELBY,
Chairman, Banking, Housing and Urban Affairs Committee, U.S. Senate,
Washington, DC.

DEAR MAJORITY LEADER FRIST AND CHAIRMAN SHELBY, We are concerned that if effective regulatory reform legislation for the housing-finance government sponsored enterprises (GSEs) is not enacted this year, American taxpayers will continue to be exposed to the enormous risk that Fannie Mae and Freddie Mac pose to the housing market, the overall financial system, and the economy as a whole. Therefore, we offer you our support in bringing the Federal Housing Enterprise Regulatory Reform Act (S. 190) to the floor and allowing the Senate to debate the merits of this bill, which was passed by the Senate Banking Committee.

Congress chartered Fannie and Freddie to provide access to home financing by maintaining liquidity in the secondary mortgage market. Today, almost half of all mortgages in the U.S. are owned or guaranteed by these GSEs. They are mammoth financial institutions with almost $1.5 trillion of debt outstanding between them. With the fiscal challenges facing us today (deficits, entitlements, pensions and flood insurance), Congress must ask itself who would actually pay this debt if Fannie or Freddie could not?

Substantial testimony calling for improved regulation of the GSEs has been provided to the Senate by the Treasury, Federal Reserve, HUD, GAO, CBO, and others. Congress has the opportunity to recommit itself to the housing mission of the GSEs while at the same time making sure the GSEs operate in a manner that does not expose our financial system, or taxpayers, to unnecessary risk. It is vitally important that Congress take the necessary steps to ensure that these institutions benefit from strong and independent regulatory supervision, operate in a safe and sound manner, and are primarily focused on their statutory mission. More importantly, Congress must ensure that the American taxpayer is protected in the event either GSE should fail. We strongly support an effort to schedule floor time this year to debate GSE regulatory reform.

Sincerely,

Chuck Hagel; John E. Sununu; John McCain; Elizabeth Dole; Lindsey Graham; Jeff Sessions; Wayne Allard; Mike Crapo; Jim Bunning; Jon Kyl; Rick Santorum; Mel Martinez; Judd Gregg; John Thune; Richard Burr; John Ensign; Larry Craig; Jim DeMint; James M. Inhofe; Tom Coburn.

Mr. MCCAIN. The letter stated in part:

Substantial testimony calling for improved regulation of the GSEs has been provided to the Senate by the Treasury, Federal Reserve, HUD, GAO, CBO, and others. Congress has the opportunity to recommit itself to the housing mission of the GSEs while at the same time making sure the GSEs operate in a manner that does not expose our financial system, or taxpayers, to unnecessary risk. It is vitally important that Congress take the necessary steps to ensure that these institutions benefit from strong and independent regulatory supervision, operate in a safe and sound manner, and are primarily focused on their statutory mission.

More importantly, Congress must ensure that the American taxpayer is protected in the event either GSE should fail.

Sadly, the bill which had passed the Senate Banking Committee under the leadership of then-Chairman SHELBY, with the support of all the committee's Republicans and none of the Democrats, was not brought up for consideration before this body.

It is critical to note, it was in 2005 that the GSEs, which had been acquiring increasing numbers of subprime loans for many years in order to meet their HUD-imposed affordable housing requirements, accelerated the purchases that led to their 2008 insolvency.

If legislation along the lines of the Senate Banking Committee's bill had been enacted that year, many if not all the losses Fannie Mae and Freddie Mac suffered, and will suffer in the future, may have been avoided. I wish to make it clear to my colleagues: Failure of Congress to act could have prevented—if they had acted—many of the failures we are now facing.

Any criticism leveled at Congress for the failures in Fannie Mae and Freddie Mac is very well placed. On October 3, 2008, the Wall Street Journal reported on how Congress pushed Fannie Mae and Freddie Mac to increase the purchases of low- and moderate-income borrowers. They wrote:

Beginning in 1992, Congress pushed Fannie Mae and Freddie Mac to increase their purchases of mortgages going to low- and moderate-income borrowers. For 1996, the Department of Housing and Urban Development (HUD) gave Fannie and Freddie an explicit target—42 percent of their mortgage financing had to go to borrowers with income below the median in their area. The target increased to 50 percent in 2000 and 52 percent in 2005.

For 1996, HUD required that 12 percent of all mortgages purchased by Fannie Mae and Freddie Mac be ''special, affordable'' loans, typically to borrowers with income less than 60 percent of their area's median income. That number was increased to 20 percent in 2000 and 22 percent in 2005. The 2008 goal was to be 28 percent.

Between 2000 and 2005, Fannie Mae and Freddie Mac met these goals every year, funding hundreds of billions of dollars' worth of loans, many of them subprime and adjustable rate loans made to borrowers who bought houses with less than 10 percent down.

Fannie Mae and Freddie Mac also purchased hundreds of billions of subprime securities for their own portfolios to make money and help satisfy HUD affordable housing goals. Fannie Mae and Freddie Mac were important contributors to the demand for subprime securities. Congress designed Fannie Mae and Freddie Mac to serve both their investors and the political class.

Demanding that Fannie Mae and Freddie do more to increase home ownership among poor people allowed Congress and the White House to subsidize low-income housing outside the budget, at least in the short run. It was a political free lunch. The Community Reinvestment Act, CRA, did the same thing with traditional banks. It encouraged banks to serve two masters, their bottom line and the so-called common good.

First passed in 1977, the CRA was ''strengthened'' in 1995, causing an increase of 80 percent in the number of bank loans going to low- and moderate-income families. By the way, there is nothing wrong with that as long as they meet the fundamental criteria, that they are borrowing money they can pay back.

Fannie Mae and Freddie Mac were part of the CRA story too. In 1997, Bear Stearns did the first securitization of CRA loans, a $384 million offering guaranteed by Freddie Mac. Over the next 10 months, Bear Sterns issued $1.9 billion of CRA mortgages backed by Fannie Mae or Freddie Mac.

Between 2000 and 2002, Fannie Mae securitized $394 billion in CRA loans, with $20 billion going to securitize the mortgages. Fannie Mae and Freddie Mac played a significant role in the explosion of subprime mortgages and subprime mortgage-backed securities.

Without Fannie Mae and Freddie Mac's implicit guarantee of government support, which turned out to be all too real, would the mortgage-backed securities market and the subprime part of it have expanded the way they did? Perhaps. But before we conclude that markets failed, we need a careful analysis of public policy's role in creating this mess. Greedy investors obviously played a part, but investors have always been greedy, and some inevitably overreach and destroy themselves.

Why did they take so many down with them this time? Part of the answer is, a political class greedy to push home ownership rates to historic highs, from 64 percent in 1994 to 69 percent in 2004. This was mostly the result of loans to low-income, higher risk borrowers. Both Bill Clinton and George W. Bush, abetted by Congress, trumpeted this rise as it occurred.

The consequence, on top of putting the entire financial system at risk, the hidden cost has been hundreds of billions of dollars funneled into the housing market instead of more productive assets. Beware of trying to do good with other people's money.

Unfortunately, that strategy remains at the heart of the political process and a proposed solution to this crisis. Congress had the responsibility to ensure that Fannie Mae and Freddie Mac were properly supervised and adequately regulated. Congress failed. The devastation caused by that failure continues to reverberate across the Nation as more and more families face foreclosures every day.

In September 2008, the Washington Post published an in-depth article titled: "How Washington Failed to Rein in Fannie, Freddie. As Profits Grew, Firms Used Their Power To Mask Peril." It is extremely informative and raised many troubling questions about the culture of corruption which is evident in the operations of both enterprises.

The Post piece begins:

Gary Gensler, an undersecretary of the Treasury, went to Capitol Hill in March 2000 to testify in favor of a bill everyone knew would fail.

Fannie Mae and Freddie Mac were ascendent, giants of the mortgage finance business and key players in the Clinton administration's drive to expand home ownership. But Gensler and other Treasury officials feared the companies had grown so large that, if they stumbled, the damage to the U.S. economy could be staggering. Few officials had ever publicly criticized Fannie Mae and Freddie Mac, but Gensler concluded it was time to rein them in.

"We thought this was a hand-on-the-Bible moment," he recalled.

The bill failed.

The companies kept growing, the dangers posed by their scale and financial practices kept mounting, critics kept warning of the consequences. Yet across official Washington, those who might have acted repeatedly failed to do so until it was too late.

Blessed with the advantages of a government agency and a private company "at the same time, Fannie Mae and Freddie Mac used their windfall profits to co-opt the politicians who were supposed to control them. The companies fought successfully against increased regulation by cultivating their friends and hounding their enemies.

The agencies that regulated the companies were outmatched: They lacked the money, the staff, the sophistication and the political support to serve as an effective check.

But most of all, the companies were protected by the belief widespread in Washington—and aggressively promoted by Fannie Mae and Freddie Mac—that their success was inseparable from the expansion of homeownership in America. That conviction was so strong that many lawmakers and regulators ignored the peril posed to that ideal by the failure of either company.

In October 1992, a brief debate unfolded on the floor of the House of Representatives over a bill to create a new regulator for Fannie Mae and Freddie Mac. On one side stood Jim Leach, an Iowa Republican concerned that Congress was "hamstringing" this new regulator at the behest of the companies.

He warned that the two companies were changing "from being agencies of the public at large to money machines for the stockholding few."

On the other side stood Barney Frank, a Massachusetts Democrat, who said the companies served a public purpose. They were in the business of lowering the price of mortgage loans.

Congress chose to create a weak regulator, the Office of Federal Housing Enterprise Oversight. The agency was required to get its budget approved by Congress, while agencies that regulated the banks set their own budgets. That gave Congressional allies an easy way to exert pressure.

"Fannie Mae's lobbyists worked to ensure that [the] agency was poorly funded and its budget remained subject to approval in the annual appropriations process," OFHEO said more than a decade later in a report on Fannie Mae. "The goal of senior management was straightforward: to force OFHEO to rely on the [Fannie] for information and expertise to the degree that Fannie Mae would essentially regulate itself."

Congress also wanted to free up money for Fannie Mae and Freddie Mac to buy mortgage loans and specified that the pair would be required to keep a much smaller share of their funds on hand than other financial institutions. Where banks that held $100 could spend $90 buying mortgage loans, Fannie Mae and Freddie Mac could spend $97.50 buying loans.

Finally, Congress ordered that the companies be required to keep more capital as a cushion against losses if they invested in riskier securities. But the rule was never set during the Clinton administration, which came to office that winter, and was only put in place nine years later.

The Clinton administration wanted to expand the share of Americans who owned homes, which had stagnated below 65 percent throughout the 1980s. Encouraging the growth of the two companies was a key part of that plan.

"We began to stress homeownership as an explicit goal for this period of American history," said Henry Cisneros, then Secretary of Housing and Urban Development. "Fannie Mae and Freddie Mac became part of that equation."

The result was a period of unrestrained growth for the companies. They had pioneered the business of selling bundled mortgage loans to investors and now, as demand for investors soared, so did their profits.

Near the end of the Clinton administration, some of its officials had concluded the companies were so large that their sheer size posed a risk to the financial system.

In the fall of 1999, Treasury Secretary Lawrence Summers issued a warning, saying, "Debates about systemic risk should also now include government-sponsored enterprises, which are large and growing rapidly."

It was a signal moment. An administration official had said in public that Fannie Mae and Freddie Mac could be a hazard.

The next spring, seeking to limit the companies' growth, Treasury official Gensler testified before Congress in favor of a bill that would have suspended the Treasury's right to buy $2.25 billion of each company's debt—basically, a $4.5 billion lifeline for the companies.

A Fannie Mae spokesman announced that Gensler's remarks had just cost 206,000 Americans the chance to buy a home because the market now saw the companies as a riskier investment.

The Treasury Department folded in the face of public pressure.

There was an emerging consensus among politicians and even critics of the two companies that Fannie Mae might be right. The companies increasingly were seen as the engine of the housing boom. They were increasingly impervious to calls for even modest reforms.

As early as 1996, the Congressional Budget Office had reported that the two companies were using government support to goose profits, rather than reducing mortgage rates as much as possible.

But the report concluded that severing government ties with Fannie Mae and Freddie Mac would harm the housing market. In unusually colorful language, the budget office wrote, "Once one agrees to share a canoe with a bear, it is hard to get him out without obtaining his agreement or getting wet."

Fannie Mae and Freddie Mac enjoyed the nearest thing to a license to print money. The companies borrowed money at below-market interest rates based on the perception that the government guaranteed repayment, and then they used the money to buy mortgages that paid market interest rates. Federal Reserve Chairman Alan Greenspan called the difference between the interest rates a "big, fat gap." The budget office study found that it was worth $3.9 billion in 1995. By 2004, the office would estimate it was worth $20 billion.

As a result, the great risk to the profitability of Fannie Mae and Freddie Mac was not the movement of interest rates or defaults by borrowers, the concerns of normal financial institution. Fannie Mae's risk was political, the concern that the government would end its special status.

So the companies increasingly used their windfall for a massive campaign to protect that status.

"We manage our political risk with the same intensity that we manage our credit and interest rate risks," Fannie Mae chief executive Franklin Raines said in a 1999 meeting with investors.

Fannie Mae, and to a lesser extent Freddie Mac, became enmeshed in the fabric of political Washington. They were places former government officials went to get wealthy—and to wait for new federal appointments. At Fannie Mae, chief executives had clauses written into their contracts spelling out the severance benefits they would receive if they left for a government post.

The companies also donated generously to the campaigns of favored politicians.

But Fannie Mae wasn't just buying influence. It was selling government officials on an idea by making its brand synonymous with homeownership. The company spent tens of millions of dollars each year on advertising.

In tying itself to politicians and wrapping itself in the American flag, Fannie Mae went out of its way to share credit with politicians for investments in their communities.

"They have always done everything in their power to massage Congress," Leach said.

And when they couldn't massage, they intimidated. In 2003, Richard H. Baker (R-La.), chairman of the House Financial Services subcommittee with oversight over Fannie Mae and Freddie Mac, got information from OFHEO on the salaries paid to executives at both companies. Fannie Mae threatened to sue Baker if he released it, he recalled. Fearing the expense of a court battle, he kept the data secret for a year.

Baker, who left office in February, 2008, said he had never received a comparable threat from another company in 21 years in Congress. ''The political arrogance exhibited in their heyday, there has never been before or since a private entity that exerted that kind of political power,'' he said.

In June 2003, Freddie Mac dropped a bombshell: It had understated its profits over the previous three years by as much as $6.9 billion in an effort to smooth out earnings.

OFHEO seemed blind. Months earlier, the regulator had pronounced Freddie's accounting controls ''accurate and reliable.''

Humiliated by the scandal, then-OFHEO director Armando Falcon Jr. persuaded the White House to pay for an outside accountant to review the books of Fannie Mae. The agency reported in September 2004 that Fannie Mae also had manipulated its accounting, in this case to inflate its profits.

The companies soon faced new bills in both the House and the Senate seeking increased regulation. The Bush administration took the hardest line, insisting on a strong new regulator and seeking the power to put the companies into receivership if they foundered. That suggested the government might not stand behind the companies' debt.

Fannie Mae and Freddie Mac succeeded in escaping once more, by pounding every available button.

The companies orchestrated a letter-writing campaign by traditional allies including real estate agents, home builders and mortgage lenders. Fannie Mae ran radio and television ads ahead of a key Senate committee meeting, depicting a Latino couple who fretted that if the bill passed, mortgage rates would go up.

The wife lamented: ''But that could mean we won't be able to afford the new house.''

Most of all, the company leaned on its Congressional supporters.

Fannie Mae even persuaded the New York Stock Exchange to allow its shares to keep trading. The company had not issued a required report on its financial condition in a year. The rules of the exchange required delisting. So the exchange created an exception when ''delisting would be significantly contrary to the national interest.''

The amendment was approved by the Securities and Exchange Commission. Fannie Mae would remain on the New York Stock Exchange.

As Fannie Mae and Freddie Mac were trying to recover from their accounting scandals, a new and ultimately mortal threat emerged. Yet again, the warnings went unheeded for too long.

The companies had begun buying loans made to borrowers with credit problems.

Fannie Mae and Freddie Mac had been losing market share to Wall Street banks, which were doing boomtown business packaging these riskier loans. The mortgage finance giants wanted a share of the profits.

Soon, the firms' own reports were noting the growing risk of their portfolios. Dense monthly summaries of the companies' mortgage purchases were piling up at OFHEO.

An employee at one of the companies said it was already a constant discussion around the office in 2004: When would the regulators notice?

''It didn't take a lot of sophistication to notice what was happening to the quality of the loans. Anybody could have seen it,'' the staffer said. ''But nobody on the outside was even questioning us about it.''

President Bush had pledged to create an ''ownership society,'' and the companies were helping the administration achieve its goal of putting more than 10 million Americans into their first homes.

Fannie Mae and Freddie Mac's appetite for risky loans was growing ever more voracious. By the time OFHEO began raising red flags in January 2007, many borrowers were defaulting on loans and within months Fannie Mae and Freddie Mac would be running out of money to cover the losses.

Finally, as the credit crisis escalated, Congress passed a bill in July of 2008 that established a tough, new regulator for Fannie Mae and Freddie Mac. It was too late.

Americans are hurting. The economic situation remains depressed in my State. Unemployment is at record levels. The time has come to end the taxpayer-funded free ride of the gambling institutions. We cannot afford it anymore.

Mr. President, for us to somehow say we are going to enact significant and meaningful financial regulatory reform without addressing this situation—these hundreds of billions of dollars of toxic assets that still have not been resolved; two government-supported enterprises that have been propped up by the taxpayers of America for too long, while they engaged in the riskiest of enterprises, paying obscene profits to their executives and CEOs, their boards of directors derelict in their duties, criminally so.

We must enact reform of Freddie and Fannie if we are going to perform our duties, albeit too late—too late because of the terrible losses we have inflicted on the American taxpayers. But it is not too late to fix it.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Thank you, Mr. President.

I rise to speak for a moment again about my amendment No. 3746, of which I am delighted that the distinguished Presiding Officer is a cosponsor. I ask unanimous consent that Chairman PATRICK LEAHY, Senator JIM WEBB, and Senator BOB CASEY all be added as cosponsors to the amendment.

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

Mr. WHITEHOUSE. Just to recap it briefly, if you go around the country—

Mr. DODD. Mr. President, will the Senator yield for a moment?

Mr. WHITEHOUSE. I will be glad to yield to the chairman.

Mr. DODD. Mr. President, I see my friend from Arizona.

Can I ask the Senator, did he lay down his amendment? I am unclear.

Mr. MCCAIN. I have not laid down the amendment because I understand the Senator from Connecticut would move to table, and there are numerous Members who want to talk on this issue—this multitrillion-dollar issue. So, no, I have not. But I can also assure the Senator from Connecticut, if I propose the amendment, and it is tabled without proper debate, there will be another amendment just like it.

Mr. DODD. Let me say to my friend from Arizona—and he is my friend—I have no intention of immediately tabling anyone's amendment. I have not done that at all in the process. I think most Members appreciate I have been trying to make sure everybody has a chance to be heard and to work out amendments where we can so we can move along.

You can also understand my dilemma, in a sense. We have 100 Members here who basically all have amendments on which they want to get heard. Everyone thinks their amendment is pretty important, and I respect that. All I am trying to look for are some time agreements so we can say: How long do we need? So we can then set up a schedule whereby, with some predictability—Members want to go home tomorrow. Are we going to have votes tomorrow? Are we going to have votes on Monday?

I am just trying to have a schedule so I can accommodate as many people as I can so they can be heard on their matters. That is all I am seeking. I am not trying to shortcut anybody, although I would ask for reasonableness on time so everybody gets a crack at what they would like to do. That is all I am inquiring.

Mr. MCCAIN. In the words of Humphrey Bogart in Casablanca, I was misinformed because I was told by several different individuals that you would be moving to table the amendment if it was proposed. I am glad to hear that is not the case. I know of at least 20 Members on this side who want to speak on this issue. I will try to compile that and try to come to the Senator with a list and the time they want to discuss.

With all due respect to all the other amendments—and I do not say this very often—when we are talking about trillions of dollars—trillions of dollars—this is a very important amendment. So I will try to get to the distinguished chairman—I say with sympathy and respect—a list of speakers and the amount of time they may consume as soon as possible.

Mr. DURBIN. Mr. President, will the Senator from Arizona yield for a question?

Can I ask the Senator from Arizona, while he is working out his list and speakers and time, can we move some other amendments?

Mr. MCCAIN. Sure. Absolutely.

Mr. DURBIN. Bring them to a vote on the floor this evening?

Mr. MCCAIN. Absolutely.

Mr. DURBIN. Does the Senator have any objection to that?

Mr. MCCAIN. I have no objection to moving other amendments while I am doing that. None whatsoever.

Mr. DURBIN. On both sides of the aisle I hope we can work to accomplish that.

Mr. MCCAIN. We have to ask our leader but, yes, that is fine. Our two leaders say it is fine. I thank you.

Mr. DODD. I thank the Senator from Arizona.

We have Senator SANDERS' pending amendment, on which I think we have reached a lot of consensus. I would like to see us get a vote on it. I know there are some issues that are—I will not mention them at all, but my hope is my colleagues might let us go to this. Is there any chance of that at all? Would someone get back to me and let me know it we can—

I urge a vote on the Sanders amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DODD. Is there a sufficient second?

The PRESIDING OFFICER. There is not a sufficient second.

Mr. SANDERS. Point of order: How many hands do you need up?

The PRESIDING OFFICER. Twenty.

Ordering the yeas and nays does not force a vote on the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk called the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 3 Leg.]

Alexander	Gregg	Sanders
Bennett (CO)	Hagan	Schumer
Brown (OH)	Isakson	Shelby
Burris	McCain	Udall (CO)
Dodd	Murray	Warner
Durbin	Reid (NV)	Whitehouse

The PRESIDING OFFICER. A quorum is not present.

The majority leader is recognized.

Mr. REID. Mr. President, I enter a motion to instruct the Sergeant at Arms to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. McCONNELL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from South Carolina (Mr. DEMINT), the Senator from Arizona (Mr. KYL), the Senator from Indiana (Mr. LUGAR), and the Senator from Ohio (Mr. VOINOVICH).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 33, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—61

Akaka	Durbin	Leahy
Baucus	Feingold	Levin
Bayh	Feinstein	Lieberman
Begich	Franken	Lincoln
Bennet	Gillibrand	McCaskill
Bingaman	Graham	Menendez
Boxer	Hagan	Merkley
Brown (MA)	Harkin	Mikulski
Brown (OH)	Hatch	Murray
Burris	Inouye	Nelson (NE)
Cantwell	Johnson	Nelson (FL)
Cardin	Kaufman	Pryor
Carper	Kerry	Reed
Casey	Klobuchar	Reid
Conrad	Kohl	Rockefeller
Dodd	Landrieu	Sanders
Dorgan	Lautenberg	Schumer
Shaheen	Udall (CO)	Whitehouse
Specter	Udall (NM)	Wyden
Stabenow	Warner	
Tester	Webb	

NAYS—33

Alexander	Cornyn	McCain
Barrasso	Crapo	McConnell
Bond	Ensign	Murkowski
Brownback	Enzi	Risch
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Corker	LeMieux	Wicker

NOT VOTING—6

Bennett	DeMint	Lugar
Byrd	Kyl	Voinovich

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I am sometimes a patient person. I am really doing my best to be patient. I am going into this with good faith, as I hope my Republican colleagues are. We have not gotten a lot done. The issue we are working on is very important. But I just tell my friends on the other side of the aisle, we do not need a filibuster by some other name. I am approaching this in good faith.

People have worked very hard. We have a lot to do. I think it goes without saying that we were at a meeting today, and we were told we have to complete the supplemental for the war spending by the time we leave here. That came from Secretary Gates. We have a lot to do.

My suggestion is that people who want to offer amendments work tomorrow, they work Saturday and Sunday. The Banking staff will be available and the Agriculture staff will be available. If you have amendments, bring them together. We have a lot of amendments, but many of them are on the same subject. Work with the Banking staff and the Agriculture staff to come up with the amendments we can move through as quickly as possible. I want people, if they have something to say, to say it, but we don't need hours and hours to say it.

One of the most important amendments we are trying to do is one that has been talked about by Senators KAUFMAN and BROWN for weeks. And he has agreed to take 5 minutes on it. It has been talked about. We have read it. Senator BROWN has agreed to take 5 minutes. We have read about it in the press. Everybody knows what he is trying to do. So I appreciate very much the Republicans allowing us to move forward on this amendment tonight. But, please, over the next few days we have a lot of amendments that are important, and I understand that, but when it comes time to offer these amendments, you need a lot of work on them. It always happens because it is a complicated bill. And we only need one amendment. We do not need the same amendment offered by five different Senators.

I appreciate everyone's patience tonight. We are trying to work through this. We are not going to have votes tomorrow. We are going to have votes tonight. And it has been hard to get here.

I appreciate the conversation I had with the Republican leader earlier today, and I know how hard this has been for the two managers of this part of the bill, Senators DODD and SHELBY.

Senator SHELBY has been especially gracious during the whole day. This is his birthday. His wonderful wife is waiting for him for dinner. She has been waiting for an hour now, and she is going to have to wait a little while longer, as she has waited for him a long time on other occasions. So we wish him a happy birthday.

I ask unanimous consent that the following be the next amendments in order: Cantwell amendment No. 3786, to be modified with the changes at the desk, and it is my understanding that is going to go by voice; Brown amendment No. 3733, with a second-degree amendment by Senator ENSIGN, amendment No. 3869; that Senator BROWN will have 5 minutes, Senator ENSIGN will have 5 minutes, and Senator DODD will have 5 minutes, and then we will proceed to a vote on that matter. I further ask consent that it be in order for a Democratic side-by-side to the McCain GSE amendment and that the Cardin amendment No. 3840 be considered tonight, and it is my understanding that amendment will be decided by a voice vote; that after the Cantwell amendment is called and modified, there be 10 minutes of debate with respect to that amendment, with the time equally divided and controlled in the usual form; that upon the use or yielding back of the time, the amendment be agreed to, and that there be no amendments in order to the amendments in this agreement prior to a vote except as we have stated.

The PRESIDING OFFICER (Mr. MERKLEY.) Is there objection?

Mr. McCONNELL. Mr. President, reserving the right to object—I am certainly not going to object; I just wanted to make sure everyone understands. So tomorrow would be debate only?

Mr. REID. Yes, debate only, and the same on Monday.

Mr. McCONNELL. I want to echo the comments of the majority leader with regard to getting amendments prepared. It is to our advantage to have amendment votes. We are going to work hard to get them in the queue and to get them voted on.

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

The Senator from Washington is recognized.

AMENDMENT NO. 3786, AS MODIFIED, TO AMENDMENT NO. 3739

Ms. CANTWELL. Mr. President, I ask unanimous consent that the pending amendment be set aside and call up my amendment No. 3786, as modified.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Ms. CANTWELL], for herself, Mr. WHITEHOUSE, and Mr. SANDERS, proposes an amendment numbered 3786, as modified, to amendment No. 3739.

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

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

The amendment is as follows:

On page 762, between lines 5 and 6, insert the following:

SEC. _____. ANTIMARKET MANIPULATION AUTHORITY.

(a) PROHIBITION REGARDING MANIPULATION AND FALSE INFORMATION.—Subsection (c) of section 6 of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended to read as follows:

''(c) PROHIBITION REGARDING MANIPULATION AND FALSE INFORMATION.—

''(1) PROHIBITION AGAINST MANIPULATION.—It shall be unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010.

''(A) SPECIAL PROVISION FOR MANIPULATION BY FALSE REPORTING.—Unlawful manipulation for purposes of this paragraph shall include, but not be limited to, delivering, or causing to be delivered for transmission through the mails or interstate commerce, by any means of communication whatsoever, a false or misleading or inaccurate report concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, knowing, or acting in reckless disregard of the fact, that such report is false, misleading or inaccurate.

''(B) EFFECT ON OTHER LAW.—Nothing in this paragraph shall affect, or be construed to affect, the applicability of section 9(a)(2).

''(2) PROHIBITION REGARDING FALSE INFORMATION.—It shall be unlawful for any person to make any false or misleading statement of a material fact to the Commission, including in any registration application or any report filed with the Commission under this Act, or any other information relating to a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, or to omit to state in any such statement any material fact that is necessary to make any statement of a material fact made not misleading in any material respect, if the person knew, or reasonably should have known, the statement to be false or misleading.

''(3) OTHER MANIPULATION.—In addition to the prohibition in paragraph (1), it shall be unlawful for any person, directly or indirectly, to manipulate or attempt to manipulate the price of any swap, or of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity.

''(4) ENFORCEMENT.—

''(A) AUTHORITY OF COMMISSION.—If the Commission has reason to believe that any person (other than a registered entity) is violating or has violated this subsection, or any other provision of this Act (including any rule, regulation, or order of the Commission promulgated in accordance with this subsection or any other provision of this Act), the Commission may serve upon the person a complaint.

''(B) CONTENTS OF COMPLAINT.—A complaint under subparagraph (A) shall—

''(i) contain a description of the charges against the person that is the subject of the complaint; and

''(ii) have attached or contain a notice of hearing that specifies the date and location of the hearing regarding the complaint.

''(C) HEARING.—A hearing described in subparagraph (B)(ii)—

''(i) shall be held not later than 3 days after service of the complaint described in subparagraph (A);

''(ii) shall require the person to show cause regarding why—

''(I) an order should not be made—

''(aa) to prohibit the person from trading on, or subject to the rules of, any registered entity; and

''(bb) to direct all registered entities to refuse all privileges to the person until further notice of the Commission; and

''(II) the registration of the person, if registered with the Commission in any capacity, should not be suspended or revoked; and

''(iii) may be held before—

''(I) the Commission; or

''(II) an administrative law judge designated by the Commission, under which the administrative law judge shall ensure that all evidence is recorded in written form and submitted to the Commission.

''(5) SUBPOENA.—For the purpose of securing effective enforcement of the provisions of this Act, for the purpose of any investigation or proceeding under this Act, and for the purpose of any action taken under section 12(f) of this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission (except as provided in paragraph (7)) may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry.

''(6) WITNESSES.—The attendance of witnesses and the production of any such records may be required from any place in the United States, any State, or any foreign country or jurisdiction at any designated place of hearing.

''(7) SERVICE.—A subpoena issued under this section may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country, except that a subpoena to be served on a person who is not to be found within the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission.

''(8) REFUSAL TO OBEY.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question.

''(9) FAILURE TO OBEY.—Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.

''(10) EVIDENCE.—On the receipt of evidence under paragraph (4)(C)(iii), the Commission may—

''(A) prohibit the person that is the subject of the hearing from trading on, or subject to the rules of, any registered entity and require all registered entities to refuse the person all privileges on the registered entities for such period as the Commission may require in the order;

''(B) if the person is registered with the Commission in any capacity, suspend, for a period not to exceed 180 days, or revoke, the registration of the person;

''(C) assess such person—

''(i) a civil penalty of not more than an amount equal to the greater of—

''(I) $140,000; or

''(II) triple the monetary gain to such person for each such violation; or

''(ii) in any case of manipulation or attempted manipulation in violation of this subsection or section 9(a)(2), a civil penalty of not more than an amount equal to the greater of—

''(I) $1,000,000; or

''(II) triple the monetary gain to the person for each such violation; and

''(D) require restitution to customers of damages proximately caused by violations of the person.

''(11) ORDERS.—

''(A) NOTICE.—The Commission shall provide to a person described in paragraph (10) and the appropriate governing board of the registered entity notice of the order described in paragraph (10) by—

''(i) registered mail;

''(ii) certified mail; or

''(iii) personal delivery.

''(B) REVIEW.—

''(i) IN GENERAL.—A person described in paragraph (10) may obtain a review of the order or such other equitable relief as determined to be appropriate by a court described in clause (ii).

''(ii) PETITION.—To obtain a review or other relief under clause (i), a person may, not later than 15 days after notice is given to the person under clause (i), file a written petition to set aside the order with the United States Court of Appeals—

''(I) for the circuit in which the petitioner carries out the business of the petitioner; or

''(II) in the case of an order denying registration, the circuit in which the principal place of business of the petitioner is located, as listed on the application for registration of the petitioner.

''(C) PROCEDURE.—

''(i) DUTY OF CLERK OF APPROPRIATE COURT.—The clerk of the appropriate court under subparagraph (B)(ii) shall transmit to the Commission a copy of a petition filed under subparagraph (B)(ii).

''(ii) DUTY OF COMMISSION.—In accordance with section 2112 of title 28, United States Code, the Commission shall file in the appropriate court described in subparagraph (B)(ii) the record theretofore made.

''(iii) JURISDICTION OF APPROPRIATE COURT.—Upon the filing of a petition under subparagraph (B)(ii), the appropriate court described in subparagraph (B)(ii) shall have jurisdiction to affirm, set aside, or modify the order of the Commission, and the findings of the Commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive.''.

(b) CEASE AND DESIST ORDERS, FINES.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended to read as follows:

''(d) If any person (other than a registered entity), is violating or has violated subsection (c) or any other provisions of this Act or of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing, and subject to appeal as in other cases provided for in subsection (c), make and enter an order directing that such person shall cease and desist therefrom and, if such person thereafter and after the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than the higher of $140,000 or triple the monetary gain to such person, or imprisoned for not less than six months nor more than one year, or both, except that if such failure or refusal to obey or comply with such order involves any offense within subsection (a) or (b) of section 9 of this Act, such person shall be guilty of a felony and, upon conviction thereof, shall be subject to the penalties of said subsection (a) or (b): Provided, That any such cease and desist order under this subsection against any respondent in any case of manipulation shall be issued only in conjunction with an order issued against such respondent under subsection (c). Each day during which such failure or refusal to obey or comply with such order continues shall be deemed a separate offense.''.

(c) MANIPULATIONS; PRIVATE RIGHTS OF ACTION.—Section 22(a)(1) of the Commodity Exchange Act (7 U.S.C. 25(a)(1)) is amended by striking subparagraph (D) and inserting the following:

''(D) who purchased or sold a contract referred to in subparagraph (B) hereof or swap if the violation constitutes—

''(i) the use or employment of, or an attempt to use or employ, in connection with a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative device or contrivance in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010; or

''(ii) a manipulation of the price of any such contract or swap or the price of the commodity underlying such contract or swap.''.

(d) EFFECTIVE DATE.—

(1) The amendments made by this section shall take effect on the date on which the final rule promulgated by the Commodity Futures Trading Commission pursuant to this Act takes effect.

(2) Paragraph (1) shall not preclude the Commission from undertaking prior to the effective date any rulemaking necessary to implement the amendments contained in this section.

Ms. CANTWELL. I further ask unanimous consent that Senators MERKLEY, BROWN of Ohio, and SHAHEEN be added as cosponsors.

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

Mr. DODD. I would like to be added as a cosponsor.

Ms. CANTWELL. I ask unanimous consent that Senator DODD also be added as a cosponsor.

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

Ms. CANTWELL. My amendment strengthens the Commodity Futures Trading Commission's authority to go after manipulation and attempted manipulation in the swaps and commodities markets. It makes it unlawful to manipulate or attempt to manipulate the price of a swap or commodity using any manipulative device or contrivance.

Some people might be thinking: Why do we need legislation like that? Don't we already have something in place? Unfortunately, current law does not have enough protections for our consumers, and we have found in other areas that it is very important to have a strong bright line, a law on the books against manipulation. We want the CFTC to have strong tools to go after this kind of behavior. This amendment is about protecting the integrity of markets for people who rely on them for their business.

Current law makes it very difficult for the Commodity Futures Trading Commission to prove market manipulation. The CFTC has to prove that someone had specific intent to manipulate, and that is a very difficult standard to prove. Most individuals don't write an e-mail, for example, saying they intend to manipulated prices, but that is currently what the law requires the Commodity Futures Trading Commission to prove: ''specific intent'' to manipulate. As a result of this, the Federal courts have recognized that with the CFTC's weaker anti-manipulation standard, market ''manipulation cases generally have not fared so well.'' In fact, the law is so weak that in the CFTC's 35-year history, it has only had one successfully prosecuted case of market manipulation, and that case is currently on appeal in Federal court. I am going to say that again. In the 35 years of its history, the CFTC has only successfully prosecuted one single case of manipulation.

This language in this amendment is patterned after the law that the SEC uses to go after fraud and manipulation; that there can be no manipulative devices or contrivances. It is a strong and clear legal standard that allows regulators to successfully go after reckless and manipulative behavior.

This legislation tracks the Securities Act in part because Federal case law is clear that when the Congress uses language identical to that used in another statute, Congress intended for the courts and the Commission to interpret the new authority in a similar manner, and Congress has made sure that its intention is clear.

In the 75 years since the enactment of the Securities and Exchange Act of 1934, a substantial body of case law has developed around the words ''manipulative or deceptive devices or contrivances.''

The Supreme Court has compared this body of law to ''a judicial oak which has grown from little more than a legislative acorn.'' It is worth noting that the courts have held that the SEC's manipulation authority is not intended to catch sellers who take advantage of the natural market forces of supply and demand, only those who attempt to affect the market or prices by artificial means unrelated to the natural forces of supply and demand.

Mr. President, Congress granted the same antimanipulation authority to the Federal Energy Regulatory Commission in 2005 in the Energy Policy Act. We did this as a result of the Enron market manipulation. I am very proud of this legislation and its ban on manipulation in electricity and natural gas markets. I say that because there was a similar issue of deregulation of energy markets that led to the Federal regulators not doing their job.

Since we have implemented this language in the electricity markets, the Federal Energy Regulatory Commission, since 2005, has used its authority to conduct 135 investigations. Of those 135 investigations, 41 have resulted in settlements involving civil penalties or other monetary remedies totaling over $49 million.

Two investigations brought about enforcement actions against manipulation, one against Amaranth for $291 million——

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator has used 5 minutes.

Ms. CANTWELL. Mr. President, I ask unanimous consent for an additional 1 minute.

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

Ms. CANTWELL. The alleged market manipulation brought enforcement action against Amaranth for $291 million in civil penalties and Energy Trading Partners for $167 million in civil penalties. That is just an example of what a statute with teeth and a regulatory entity can do to actually stop manipulation when given that authority.

So, Mr. President, I hope my colleagues will support this strong antimanipulation standard being inserted into the Commodity Exchange Act. It will truly put a policeman on the beat and stop the kind of manipulation that has occurred in these commodities markets.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. LINCOLN addressed the Chair.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. DODD. Mr. President, as I recall the unanimous consent agreement, there were 5 minutes. Is there time allocated? I do not believe there is any opposition to this amendment; therefore, if there is any, we yield back the time.

I say to the Senator, did you want to be heard on the Cantwell amendment?

Mrs. LINCOLN. Yes.

Mr. DODD. I am sorry.

The PRESIDING OFFICER. There is 5 minutes remaining for debate.

The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I rise this evening in support of my good friend, Senator CANTWELL, and her amendment. I would like to thank the Senator from Washington who has for years been a leader in the Senate on the complicated issue of derivatives and who has been particularly effective at strengthening manipulation standards. There has not been a more effective champion of consumers and efficient markets than Senator CANTWELL.

This amendment comes as a result of hours of thoughtful hard work from Senator CANTWELL and her staff. While the Dodd-Lincoln bill contains a strong antimanipulation authority, Senator CANTWELL came to me and my staff with ideas on how to strengthen the provision, and I was pleased to have listened. We worked through our concerns and built on each other's strengths and, in the end, came up with an improved product. That is the amendment we are accepting here today.

Market manipulation is an ever-present danger in derivatives trading. Derivatives are leveraged transactions, and it is well known that in these markets there are numerous opportunities for traders to abuse their positions in order to game the market to their advantage. This is unacceptable. These markets are a fundamental part of our economy. They are used to manage risk and for price discovery, and their integrity must be preserved.

The Dodd-Lincoln bill strengthens existing law to target specific market abuses that have arisen in recent years. These abuses are outlawed as disruptive practices in section 747 of the underlying bill.

I wholeheartedly support Senator CANTWELL's amendment, which takes the significant step of adding a new and versatile standard for deceptive and manipulative practices under the Commodity Exchange Act. It addresses false reporting and authorizes private rights of action that will aid the CFTC in its enforcement effort. Senator CANTWELL's amendment will supplement the CFTC's existing standards as the Commission and the SEC work together to regulate derivatives.

The Commodity Exchange Act is a complex statute that covers many trading venues. Senator CANTWELL's amendment will give the CFTC a very important new weapon in its arsenal to combat ever-evolving forms of manipulative trading schemes that undermine public confidence in the proper functioning of these markets.

I am very proud to be a supporter of what Senator CANTWELL has done with this amendment, and I urge all of our colleagues to take a look at it and realize she has really helped to improve the bill, the underlying bill, in her actions.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3786), as modified, was agreed to.

Mr. DODD. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 3840 TO AMENDMENT NO. 3739

Mr. CARDIN. Mr. President, under the unanimous consent agreement, I call up amendment No. 3840.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN], for himself and Mr. GRASSLEY, proposes an amendment numbered 3840 to amendment No. 3739.

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

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

The amendment is as follows:

(Purpose: To provide whistleblower protections for employees of nationally recognized statistical rating organizations)

On page 977, line 19, strike ''The Securities'' and insert the following:

(a) IN GENERAL.—The Securities

On page 994, between lines 2 and 3, insert the following:

(b) PROTECTION FOR EMPLOYEES OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.—Section 1514A(a) of title 18, United States Code, is amended—

(1) by inserting ''or nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c),'' after ''78*o*(d)),''; and

(2) by inserting ''or nationally recognized statistical rating organization'' after ''such company''.

Mr. CARDIN. Mr. President, the Cardin-Grassley amendment extends whistleblower protections to employees of nationally recognized statistical rating organizations, NRSROs. NRSROs are the companies—such as Moody's and Standard & Poor's—which issue credit ratings that the U.S. Securities and Exchange Commission permits other financial firms to use for certain regulatory purposes.

There are 10 NRSROs at present, including some privately held firms. The NRSROs played a large role—by overestimating the safety of residential mortgage-backed securities and collateralized debt obligations—in creating the housing bubble and making it bigger.

Then, by marking tardy but massive simultaneous downgrades of these securities, they contributed to the collapse of the subprime secondary market and the ''fire sale'' of assets, exacerbating the financial crisis.

In the wake of the Enron, WorldCom, and Tyco corporate scandals, Congress passed the Sarbanes-Oxley Act in July of 2002. One of the provisions in the act was extended whistleblower protections to employees of any company that is registered under the SEC Act of 1934 or that is required to file reports under section 15(d) of the same act. The whistleblower provisions of the Sarbanes-Oxley Act protect employees of the publicly traded companies from retaliation by giving victims of such treatment a cause of action which can be brought in Federal court.

Section 1514(a) delineates which companies are covered by that act and what actions are prohibited. The Cardin-Grassley amendment expands the provision to include employees of the rating companies.

I think it is important we have the whistleblower protection. S. 3217 contains several provisions to improve SEC and congressional oversight of the functioning of the NRSROs. So the underlying bill does provide for the regulatory framework for the rating agencies.

What the Cardin-Grassley amendment does is extend the whistleblowing provisions—that protect employees—to all of the rating agencies. I would urge my colleagues to support the amendment.

With that, Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Connecticut.

Mr. DODD. Mr. President, I rise in strong support of the amendment offered by our colleague from Maryland, which would protect whistleblowers.

We have all learned, over the many months of discussions since the collapse and fall in 2008, of the culpability of the credit rating agencies—in terms of what was sold in the market place, relying on the reputation of the credit rating agencies and their classification of these bundled mortgages. We have had a lot of discussion about how best to do this, to rein in the credit rating agencies so we get far greater reliability and due diligence out of them.

One thing for certain that would clearly help is the Cardin amendment. It may not solve all the problems with the credit rating agencies, but it is going to be a major opportunity for us to be able to break down the bales that exist.

A significant part of our bill improves, we think, regulation. This bill contains several provisions that will make rating agencies more transparent, accountable, and accurate. That will increase the SEC's regulatory performance, and that will reduce investors' reliance on ratings issued by nationally recognized statistical rating organizations.

Senator CARDIN's amendment complements this provision in the bill, and I commend him for it. It adds employees of nationally recognized statistical rating organizations to a list of already protected whistleblowers. It is a valuable contribution to this bill, and I thank him for it.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 3840) was agreed to.

Mr. DODD. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

AMENDMENT NO. 3733 TO AMENDMENT NO. 3739

(Purpose: To impose leverage and liability limits on bank holding companies and financial companies)

Mr. BROWN of Ohio. Mr. President, I call up amendment No. 3733.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. BROWN], for himself, Mr. KAUFMAN, Mr. CASEY, Mr. WHITEHOUSE, Mr. MERKLEY, Mr. HARKIN, Mr. SANDERS, and Mr. BURRIS, proposes an amendment numbered 3733 to amendment No. 3739.

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

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

(The amendment is printed in the RECORD of Wednesday, April 28, 2010, under ''Text of Amendments.'')

Mr. BROWN of Ohio. Mr. President, the Kaufman-Brown amendment, with 14 cosponsors, would scale back the six largest banks in the Nation, requiring them to spin off into smaller more manageable banks and maintain sufficient capital to cover their debts.

These six banks' assets total $9 trillion. Our amendment ends bailouts by ensuring that no Wall Street firm is so big or so reckless that it fails, and then so does our economy. The bill we are considering today is strong, but it needs to be stronger. It focuses on monitoring risk—risk is the biggest problem—and takes action once there are signs of trouble.

But size is also a huge problem. Everyone, from consumer groups, to small business owners, to former directors, Governors of the Fed, Chairmen of the Federal Reserve—two of them—understand what is at stake if we do not pass this amendment.

They have understood because we see it for ourselves that when a few megabanks dominate our financial system, the downfall of any of them can mark the downfall of our entire economy. We have seen millions of jobs lost. We have seen millions of homes lost. We have seen trillions of dollars in savings and wealth drained.

Just 15 years ago—just 15 years ago—the six largest U.S. banks had assets equal to 17 percent of our GDP. Today, the six largest banks have total assets estimated to be in excess of 63 percent. From 17 percent of GDP to 63 percent of GDP—these six largest banks.

Alan Greenspan said too big to fail is too big. Too big to fail is too big. These six banks, in addition to the fact they already have such dominance in our economy, when borrowing money when going into the capital markets, enjoy an 80-basis point advantage over banks in Denver and Cleveland, regional banks in our States, and community banks that are even smaller. They have an 80-basis points advantage ensuring that if we don't pass the Brown-Kaufman amendment, their advantage will only grow because these banks will grow larger, because the playing field is tilted toward them, because they have this interest rate advantage when they borrow money—another reason to understand that too big to fail is too big.

I yield the last 2 or 3 minutes to Senator KAUFMAN.

Mr. KAUFMAN. Mr. President, I want to say to those who say this is Draconian, think of one thing: Citigroup under this will be the size they were in 2002. They competed internationally. Everything was the same.

In terms of risk, James Cayne said today, after he spoke before the Financial Crisis Inquiry, that Bear Stearns failed because their ratio of assets to capital was 40 to 1. This bill would cap it at 16. Bear Stearns would not have failed. We should not leave this for the regulators. In 1933 our forbears before us made tough decisions after the Great Depression and put in Glass-Steagall. We should do no less. We should be legislating for generations here tonight and support this amendment.

Thank you.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 3898 TO AMENDMENT NO. 3733

Mr. ENSIGN. Mr. President, I have a second-degree amendment to the Brown amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 3898 to amendment No. 3733.

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

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

The amendment is as follows:

(Purpose: To amend the definition of the term ''financial company'' for purposes of imposing limits on nondeposit liabilities)

On page 2 of the amendment, strike lines 11 through 15 and insert the following:

(1) FINANCIAL COMPANY.—The term ''financial company'' means—

(A) any nonbank financial company supervised by the Board;

(B) the Federal National Mortgage Association; and

(C) the Federal Home Loan Mortgage Corporation.

Mr. ENSIGN. Mr. President, I have a very simple second-degree amendment actually supporting the underlying amendment. But what my second degree does is it simply says that Fannie Mae and Freddie Mac will be subject to the same limits. Everybody has been talking about too big to fail. That is one of the problems. All of this interconnectedness of our financial markets, when one is too big to fail, draws the entire market down. That is why TARP was needed. That is why people have justified a lot of bailouts. I don't think there is anybody who can legitimately argue that Fannie and Freddie aren't too big to fail.

What this second-degree amendment says, very simply, is the 3 percent of GDP that we are limiting the banks to, we limit Freddie Mac and Fannie Mae to those same limits.

We saw yesterday afternoon that Freddie Mac said they needed another $10 million in taxpayer bailouts. There is no question it is too big. There is no question that if we actually put their debt on our balance sheets, we look much worse, the deficits on our balance sheet, we look much worse. What we are seeing over in Greece with the rioting and how that is affecting our financial markets, we need to be honest in our accounting, but we also need to make sure these things don't continue to get larger and larger.

Back in December the President took the limits off of Fannie and Freddie—took the limits off. That is saying they can grow and keep borrowing and keep doing the irresponsible things they did in the past.

When we look at the root causes of the financial crisis, people took risks they never should have taken because there were implicit guarantees not only in the banks being too big to fail but especially in Fannie and Freddie being too big to fail. It skewed the markets. People took risks they never should have taken.

There are other things I believe that need to be done with Fannie and Freddie, but certainly we can't allow them to get as large as they are now. So the reasonable limits that have been put on the large banks I think need to be put on these GSEs, the government-sponsored entities, and if we do that, I think we will be in better shape in the future for not having another financial collapse.

It is a very simple amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. ENSIGN. Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 5 minutes.

Mr. DODD. I yield 2 minutes to my colleague from Virginia, Senator WARNER, a member of the Banking Committee.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise in opposition to both the second-degree amendment and the initial Brown-Kaufman amendment. I understand their goals. I believe the chairman's bill addresses those goals. We have 10 percent total liabilities in the United States in the existing bill right now.

We only have 4 of the largest 50 banks in the world that are American domiciled. I believe this arbitrary asset cap size is not the appropriate restriction. The real question should be the level of interconnectedness and the risk taking. We saw in the crisis of 2008 the character of the firms was not simply the largest firms but firms that did undue risk taking.

We have put forward in this legislation two very important ways so that if these firms do take undue risk or if their size is a contributing factor, the Dodd bill does provide the ability for these banks to be broken up, one through the funeral plans, to make sure these large institutions have to show how they can do an orderly unwinding process through bankruptcy. If they can't show that, whether it is due to the international holdings or the domestic holdings, the systemic risk council can break up these institutions.

In addition, there are other parts of the bill that also allow it. If these institutions continue to pose a systemic risk, they can be broken up, so I rise in opposition to both amendments.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I join the Senator in opposition to the Brown amendment, but I wish to speak about the Ensign amendment.

We talk about rushing things through around here. I have heard that mentioned a lot over the last couple of days. This is going beyond rushing through. The entire 97 percent of all mortgages—97 percent of all mortgages in the country today—are going through the GSEs, Fannie and Freddie. Without them, there is no housing market in the country. So before we decide to do this without any alternative in place—and clearly one is needed. I take a backseat to no one on the idea we need to reform how the GSEs are functioning.

As I think my friend JUDD GREGG mentioned the other day, this is far too complex an issue to include in this bill. We already have 1,500 pages. We never intended to deal with every financial issue in the United States, and particularly one where the housing market today is completely dependent on this. Adopt this amendment and, believe me, by tomorrow we will have an economic reaction in the country we won't want to believe.

So with all due respect, we will deal with this. I will have language in this bill that will absolutely guarantee we are going to take up this issue in the coming Congress. It has to be done. But to grapple with that and all of these other matters in the same bill is asking too much. It doesn't minimize the importance of the issue, but this evening, without any other kind of alternative in place, to adopt this amendment and then have the implications—97 percent of all mortgages in the United States go through the GSEs and without them there is no housing market—I urge my colleagues to reject the Ensign amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I think the case has been made that Fannie and Freddie are too big. There is no question they are too big. We have also had almost 2 years to deal with it, but we haven't done anything.

Mr. DODD. If my colleague would yield, that is untrue. We passed legislation only last year on the GSEs.

Mr. ENSIGN. We have not reformed the GSEs the way we needed to. We haven't done what needs to be done on the GSEs. This is one large step to doing that, and I believe we should. They are too big and they can take this entire economy down, and that is why we have to limit the size of them. I would encourage my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Has all the time been used in opposition?

The PRESIDING OFFICER. The Senator from Connecticut has 2 minutes remaining. The Senator from Ohio has 1 minute 45 seconds, as does the Senator from Nevada.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I don't understand this Brown amendment. Basically what it says is if you are successful—we are not talking about too big to fail here, we are talking about entities, businesses that are big, yes. They are actually not as big as a lot of the international banks they compete with, and that we as a Nation compete with, but they are large and they are successful. You are going to break them up. Where does this stop? Do we take on McDonald's? Do we take on Wal-Mart? Do we take on Microsoft? Do we take on Google? Should we set a standard that we as a body can step in and unilaterally decide that some company has gotten too large and deserves to be broken up, even if it is healthy?

If it is a systemic risk because it has overextended itself and put itself into a situation where we have a question of whether it can survive, then we have the resolution authority to take care of that. But why would we—we 100 people—think we know enough to start breaking up businesses in this Nation which are profitable and which make us competitive as a Nation? It doesn't make any sense to me.

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. I yield back the remaining time.

Mr. DODD. I don't think I have any time left, do I?

The PRESIDING OFFICER. The Senator has 45 seconds remaining.

Mr. DODD. I yield it back.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I would only say that Alan Greenspan, not someone who has been on a crusade to break up America's businesses, talking about these banks, said too big to fail is too big. I think that sums it up pretty well.

I yield the remainder of my time, and I ask for the yeas and nays on the Brown amendment.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on the Brown amendment?

Without objection, it is so ordered.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Parliamentary inquiry, Mr. President: We are voting first on the Ensign amendment, is that correct?

The PRESIDING OFFICER. That is correct.

The yeas and nays have been ordered.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. BUNNING), the Senator from South Carolina (Mr. DEMINT), the Senator from Indiana (Mr. LUGAR), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 59, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—35

Barrasso	Crapo	McConnell
Bingaman	Ensign	Merkley
Bond	Enzi	Murkowski
Brownback	Feingold	Risch
Burr	Grassley	Roberts
Cantwell	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Kohl	Thune
Collins	Kyl	Wicker
Corker	Lincoln	Wyden
Cornyn	McCain	

NAYS—59

Akaka	Graham	Murray
Alexander	Gregg	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Isakson	Reid
Boxer	Johanns	Rockefeller
Brown (MA)	Johnson	Sanders
Brown (OH)	Kaufman	Schumer
Burris	Kerry	Shaheen
Cardin	Klobuchar	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Conrad	Leahy	Udall (CO)
Dodd	LeMieux	Udall (NM)
Dorgan	Levin	Voinovich
Durbin	Lieberman	Warner
Feinstein	McCaskill	Webb
Franken	Menendez	Whitehouse
Gillibrand	Mikulski	

NOT VOTING—6

Bennett	Byrd	Lugar
Bunning	DeMint	Vitter

The amendment (No. 3898) was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3733

The PRESIDING OFFICER. The question is on agreeing to the Brown amendment No. 3733.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Sentor from Kentucky (Mr. BUNNING), the Senator from South Carolina (Mr. DEMINT), the Senator from Indiana (Mr. LUGAR), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 61, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—33

Begich	Ensign	Pryor
Bingaman	Feingold	Reid
Boxer	Franken	Rockefeller
Brown (OH)	Harkin	Sanders
Burris	Kaufman	Shelby
Cantwell	Leahy	Specter
Cardin	Levin	Stabenow
Casey	Lincoln	Udall (NM)
Coburn	Merkley	Webb
Dorgan	Mikulski	Whitehouse
Durbin	Murray	Wyden

NAYS—61

Akaka	Gillibrand	McCaskill
Alexander	Graham	McConnell
Barrasso	Grassley	Menendez
Baucus	Gregg	Murkowski
Bayh	Hagan	Nelson (NE)
Bennet	Hatch	Nelson (FL)
Bond	Hutchison	Reed
Brown (MA)	Inhofe	Risch
Brownback	Inouye	Roberts
Burr	Isakson	Schumer
Carper	Johanns	Sessions
Chambliss	Johnson	Shaheen
Cochran	Kerry	Snowe
Collins	Klobuchar	Tester
Conrad	Kohl	Thune
Corker	Kyl	Udall (CO)
Cornyn	Landrieu	Voinovich
Crapo	Lautenberg	Warner
Dodd	LeMieux	Wicker
Enzi	Lieberman	
Feinstein	McCain	

NOT VOTING—6

Bennett	Byrd	Lugar
Bunning	DeMint	Vitter

The amendent (No. 3733) was rejected.

Mr. DODD. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, there are no further votes today. As I understand it, there will be no votes tomorrow. But there will be a session tomorrow for Members to come and to be heard on the remaining parts of the bill or amendments we still have to consider.

I think we all heard the majority leader, Senator REID, make the point that I made earlier; that is, I intend to be here all weekend. My staff and Senator SHELBY's staff will be as well. So for those Members who still have amendments, we are more than happy to sit down and try to resolve and work together on those amendments to see if we can't reach agreement on some or at least to work with the authors of the amendments or their staffs. So we will be here to do that.

Let me just thank all Members again. Mr. President, it is RICHARD SHELBY's birthday today—my seatmate on the Banking Committee, the former chairman of the Banking Committee—and I would just note that, even though he was late for his dinner with Annette, his lovely wife, we stepped aside around 4 p.m. this afternoon—the members of the Banking Committee, his staff, and I—and we brought out a nice cake for Senator SHELBY. So we celebrated in the midst of the debate.

It is important for the people of the country to know that we have very strong differences—I had strong objections to the Shelby amendment today, and we debated that. Yet despite those very strong differences, and while we disagree with each other on substantive issues, we can enjoy each other's company on a personal level, on a civil level.

So let me, on behalf of all of us today, wish RICHARD SHELBY a very happy birthday on this day. Again, I thank him for his cooperation and that of his staff.

I thank our floor staff today as well, working hard every day. They are here every day early in the morning and they stay here with us until late in the evening. So I want to thank them all for their tremendous work.

With that, Mr. President, I am all done, and I yield the floor.

Ms. COLLINS. Mr. President, I wish to discuss an amendment that would expand the Financial Stability Council established in S. 3217 to include the Chairman of the National Credit Union Administration. It is important that the council incorporate a Federal credit union regulator to ensure consumer regulation protections. Ninety-two million Americans are members of credit unions.

Insofar as S. 3217, section 1023 provides that any member agency of the council may set aside a final regulation or provision prescribed by the bureau, a national credit union representative should sit on the council to ensure fairness for its members.

Moreover, similar legislation passed by the House included the Chairman of the National Credit Union Administration in its Financial Services Oversight Council, so this amendment would make the composition of the council in both the House and Senate consistent.

Finally, given their size, no single credit union poses a systemic risk to the overall U.S. financial system.

I ask unanimous consent to have printed in the RECORD this statement and the supporting letters from the Credit Union National Association, the largest credit union advocacy organization representing nearly 90 percent of America's 8,700 State and federally chartered credit unions, National Credit Union Administration, and the National Association of Federal Credit Unions.

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

CREDIT UNION NATIONAL ASSOCIATION,
Washington, DC, May 5, 2010.

Hon. SUSAN COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Credit Union National Association, I am writing in support of your amendment to S. 3217 which would add the National Credit Union Administration (NCUA) to the Financial Stability Oversight Council (the Council). CUNA is the largest credit union advocacy organization representing nearly 90 percent of America's 8,700 state and federally chartered credit unions and their 92 million members.

Because of the relative size of credit unions, we believe no single credit union is large enough to impose any systemic risk on the overall financial system. Nevertheless, we believe there would be value in having the federal credit union regulator on the Council if for no other reason than Section 1023 of the underlying bill gives the members of the Council the authority to petition to stay or set aside rules promulgated by the Bureau under limited circumstances when the rules may put the safety and soundness of the banking system or the stability of the financial sector of the United States at risk. Your amendment would ensure that the credit union regulator has a voice in the review of the consumer regulations.

The House-passed version of this legislation includes the NCUA Chairman on the Financial Services Oversight Council; therefore, your amendment would eliminate a difference between the House-passed version and the Senate bill under consideration and ensure that all of the federal financial regulators are part of the Council.

On behalf of America's credit unions, thank you very much for introducing this amendment. We look forward to working with you to secure its inclusion in S. 3217.

Sincerely,

DANIEL A. MICA,
President & CEO.

NATIONAL CREDIT UNION ADMINISTRATION,
Alexandria, VA, May 5, 2010.

Hon. SUSAN M. COLLINS,
Ranking Member, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR COLLINS:

Thank you for your leadership in drafting an amendment to S. 3217, the Restoring American Financial Stability Act of 2010, to add the Chairman of the National Credit Union Administration (NCUA) as a voting member of the Financial Stability Oversight Council (the Council).

I have had the opportunity to review the proposed amendment. I wish to express my strong support for both the amendment and the underlying bill.

As you know, the NCUA was not included as a member of the Council in the legislation as reported by the Senate Committee on

Banking, Housing and Urban Affairs. Among other duties and responsibilities, members of the Council may petition the full Council to set aside a rule (or a part thereof) issued by the Bureau of Consumer Financial Protection if that rule threatens the safety and soundness of the U.S. financial sector or our system of depository institutions.

It bears noting that the NCUA Chairman is a designated member of the Consumer Financial Protection Oversight Board in the House-passed measure. If adopted, I believe your amendment would help harmonize the House and Senate bills with respect to oversight of the Consumer Financial Protection Agency or Bureau, particularly in regard to the credit union system.

Thank you again for your leadership on this important matter and for the opportunity to review and comment on your amendment.

Sincerely,

DEBBIE MATZ,
Chairman.

NATIONAL ASSOCIATION OF FEDERAL CREDIT UNIONS,
Arlington, VA, May 5, 2010.

Hon. SUSAN COLLINS,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR COLLINS: I am writing on behalf of the National Association of Federal Credit Unions (NAFCU), the only trade organization exclusively representing the interests of our nation's federal credit unions, in support of your amendment to the Restoring American Financial Stability Act of 2010 (S. 3217) that would add the Chairman of the National Credit Union Administration (NCUA) to the Financial Stability Oversight Council established in the underlying bill.

We applaud your efforts to ensure that the voices of credit unions are heard by placing NCUA on the oversight council. As you know, this is an issue of fairness and will enable the NCUA to petition for the review of a rule issued by the Bureau of Consumer Financial Protection. Without passage of this amendment, credit unions would not have the ability to appeal rule making that could have a detrimental effect on the credit union industry.

We thank you and your staff for your work on this amendment as the Senate takes up comprehensive financial regulatory reform. If we can answer any questions or provide you with further information on this matter, please do not hesitate to contact me or NAFCU's Director of Legislative Affairs Brad Thaler at (703) 522–4770.

Sincerely,

B. DAN BERGER,
Executive Vice President, Government Affairs.

MORNING BUSINESS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

RECOGNIZING NATIONAL PUBLIC GARDENS DAY

Mr. DURBIN. Mr. President, this May 7 is National Public Gardens Day, a day for us to celebrate the important role public gardens play in our communities and throughout our Nation. Across this great country, more than 500 public gardens are keeping our Nation connected to our natural world, our history, and our culture. These public gardens include arboreta, botanical gardens, zoos, historic landscapes, college campuses, and children's gardens. Together they form a web that preserves the beauty and complexity of plants and animals and humanity's interaction with them.

There is a great thirst for the knowledge and experiences public gardens can provide. Gardening is the most popular hobby in the United States, and more than 70 million people visit public gardens annually. People from all backgrounds, age groups, and geographic regions regularly share in the beauty and serenity of natural spaces such as our public gardens.

Here in Washington, DC, just across the street from the Capitol, is the U.S. Botanic Garden. Called ''America's Garden,'' it is a gateway for people to enjoy the beauty of plants while learning about the role plants play in commerce, culture, and kinship. The United States Botanic Garden is also responsible for helping to preserve and maintain the Capitol Grounds, which are enjoyed by over 3 million people who visit the Capitol every year.

In my own home State of Illinois, our 32 public gardens include wonderful and varied institutions, such as the Morton Arboretum and the Quad City Botanical Center, places such as the Cantigny Foundation and the Skokie Northshore Sculpture Park.

Among Illinois' valued public gardens is the Chicago Botanic Garden, which serves nearly 1 million visitors annually. Its classes are attended by 57,000 visitors, well over half of them school-age children. Millions of schoolchildren have been educated by public gardens about the wonders of nature and the important role of plants in our everyday lives, from the food we eat, to the clothes we wear, to the homes we live in. The Chicago Botanic Garden has hosted 22,000 children on field trips in the past year, providing opportunities for them to interact with nature—a special opportunity for some who may never otherwise get to see a real meadow or visit a lake.

Public gardens are not only committed to growing plants; they are committed to growing minds. As a result, public gardens everywhere are partnering extensively with local schools, colleges and universities, nonprofit organizations, and civic associations. Together they have worked on projects ranging from habitat restoration to landscape beautification, as well as on school-based education programs, public health education programs, and community and school gardens.

The Chicago Botanic Garden is a wonderful example of the partnerships occurring between our public gardens and our colleges. Its Windy City Harvest program partners with City Colleges of Chicago to provide summer jobs and hands-on training for teenagers at sustainable agriculture sites within Chicago. Through this partnership, participants are trained in producing high-value organic produce, which is sold at retail outlets and is made available to local residents. Program participants not only gain important entrepreneurial skills, they learn where their food comes from and the value in nurturing plant life.

We can rely on public gardens to deliver timely and critical resources for plant and water conservation, ecosystem management, green space preservation, and environmental stewardship. Visitors to public gardens have the opportunity to view regionally appropriate landscapes that preserve our precious natural resources—and give them ideas for creating their own.

Public gardens also serve as repositories for rare and endangered plant species. The research conducted by public gardens on these endangered plant species can be crucial to their survival.

Through their conservation and propagation efforts, many plants that would have been lost to us forever through extinction have been saved.

Therefore, this May 7 we should celebrate our public gardens and the many contributions they make to our communities.

SECRET HOLDS

Mr. FEINGOLD. Mr. President, I am pleased to be joining an effort spearheaded by the Senator from Missouri, Mrs. MCCASKILL, to put an end to the practice of Senators secretly holding up legislation or nominations. Senators who want to block a bill or nomination should be willing to state their objection on the record. Many of us thought we had addressed that problem when Congress approved the Honest Leadership and Open Government Act of 2007. Unfortunately, the problem of secret holds persists, and the new rule needs to be tightened.

As with any Senator, there are times when I object to passage of a bill or confirmation of a nominee. It has not been my practice to try to keep my objection secret, however. For example, when the Senator from Arizona, Mr. MCCAIN, and I objected to confirmation of the nomination of John Sullivan to a term on the Federal Election Commission last year, we released a statement publicly stating our action and our reasons. We made clear that, until the White House nominates replacements for the two other commissioners whose terms have expired, we would not consent to Mr. Sullivan's confirmation. The FEC is currently mired in anti-enforcement gridlock, and the President must nominate new commissioners with a demonstrated commitment to the existence and enforcement of the campaign finance laws.

Similarly, when I had concerns about legislation introduced by the Senator from California, Mrs. FEINSTEIN, S. 132, I discussed my concerns directly with her. I have proposed changes that would make the bill more effective in addressing the serious problem of gang-related violence, and I look forward to passage of the amended bill.

Mr. President, it is not enough to fight for change—you need to lead by example, too. So I will make it my practice to have printed a statement in the RECORD when I object to bringing up legislation or a nomination. And I urge my colleagues to do the same, and to support efforts to eliminate loopholes in the current rule.

REMOVING HOLDS

Mr. WYDEN. Mr. President, on April 16, 2010, Senator MERKLEY and I objected to any unanimous consent agreement in connection with the nominations of Sharon E. Burke, to be the Director of Operational Energy Plans and Programs at the Department of Defense; Catherine Hammack, to be the Assistant Secretary of the Army; and Elizibeth A. McGrath, to be the Deputy Chief Management Officer at DOD. At that time, we needed assurance that DOD was taking the appropriate action to address the increasing conflict between national renewable energy policy and national defense.

I am pleased to say that we have dropped our objections to any unanimous consent agreement to consider these three nominations.

I am encouraged with the progress the Department of Defense, along with the Federal Aviation Administration, has achieved to acknowledge the critical nature of our future renewable energy program and its impact to national defense. Both agencies now appear committed to address the systemic process issues associated with siting our renewable energy programs. I hope this commitment continues. Because there is much more work to be done.

I believe we must pursue upgrading hardware and software for all of our radar arrays and adjust the siting permit process so that companies know in advance, not at the eleventh hour, of any DOD objections. But I also believe there is a need for an impartial entity with the authority to consider strategic civilian energy development and national defense needs. I know it won't be easy, but I look forward to working with the administration and Defense Department to establish such an organization.

TRIBUTE TO MAYOR LUKE RAVENSTAHL

Mr. SPECTER. Mr. President, I would like to congratulate Pittsburgh Mayor Luke Ravenstahl, the residents of the city of Pittsburgh and all the citizens of southwestern Pennsylvania on Pittsburgh being recognized yet again, this time by Forbes, as the Nation's most livable city.

I have been visiting Pittsburgh every few weeks for over 30 years and I have witnessed its transformation into a progressive metropolitan area. I am pleased to see people from around the United States and around the globe recognize the unique quality of life in the Pittsburgh region. The region has transformed shuttered factories and brownfields into attractive and bustling riverfront developments and a breathtaking skyline.

People have always been aware of Pittsburgh's rich history from the days of the French and Indian wars to the Industrial Revolution and the birth of Organized Labor, but now people are seeing its transformation into the new economy as well. Steel mills are still here, but the region has also embraced and excelled in life sciences, robotics, green buildings, renewable energy and advanced manufacturing. This advancement has been spurred by world class universities and healthcare institutions, fueled by innovative entrepreneurs, and supported by a vibrant foundation and civic community.

The Pittsburgh region enjoys an abundance of natural resources, outdoor amenities, world class arts and cultural institutions, low cost of living, low crime rates, low housing costs, and of course world champion sports teams.

As many of my colleagues understand, we still face many environmental and infrastructure challenges with our postindustrial ''Rust Belt'' regions, and we must work together to support their rebirth and continued growth. I am pleased to recognize Pittsburgh and its people who exemplify so well the model for 21st century economic growth and recovery in America.

Mr. President, I ask unanimous consent that the Forbes article be printed in the RECORD.

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

PITTSBURGH TOPS LIST OF MOST-LIVABLE CITIES IN U.S.

(By Francesca Levy)

Each year Carnegie Mellon's Tepper School of Business attracts some of the brightest master's degree candidates in the country. But the admissions staff occasionally has to sway prospective students with their choice of top schools who wonder why they should relocate to Pittsburgh, Pa. ''Pittsburgh has a really great cultural scene. We have a great ballet and a great symphony that travels the world and performs to packed houses, and there's a restaurant scene that's much more diverse than it ever was when I was growing up,'' says Wendy Hermann, director of student services for master's programs and a Pittsburgh native. ''And it's an easier sell, now that the Steelers and Penguins won their respective titles.''

Indeed, Pittsburgh's art scene, job prospects, safety and affordability make it the most livable city in the country, according to measures studied. The city has rebounded from its manufacturing past. Disused steel mills have been repurposed into multimedia art centers, and amid a struggling national economy, Google Pittsburgh, a test site for the company's new high-speed broadband network, has expanded its offices to accommodate more hires.

Pittsburgh's strong university presence—the city has over a dozen colleges or campuses—helps bolster its livability. In fact, the key to finding the easiest places to live may be to follow the students. Most of the metros on our list—including Ann Arbor, Mich., Provo, Utah, and Manchester, N.H.—are college towns.

''Universities are large employers in their cities,'' says Alexander Von Hoffman, senior fellow at the Joint Center for Housing Studies at Harvard University. ''In the long term, not only do you have that employment, but you have an educated population, and you have a large youthful population which tends to be a consuming population.''

In compiling our list, we measured five data points in the country's 200 largest Metropolitan Statistical Areas: unemployment, crime, income growth, the cost of living, and artistic and cultural opportunities.

To find out where jobs were available and incomes were steadily growing, we ranked cities both by their rate of income growth over the past five years and the current unemployment rate, based on data from the Bureau of Labor Statistics. The stronger the income growth trend and the lower the unemployment, the higher each city ranked. Jobs don't mean everything, though: A city is more livable if a family's income goes further. Using cost of living data from Moody's Economy.com, we ranked cities higher that had lower costs for everyday goods.

Some places are inexpensive, but still not desirable, so we included a measure for crime, using the Federal Bureau of Investigation's and Sperling's Best Places reports on the number of crimes per 100,000 residents, ranking low-crime cities higher. We also considered a thriving local culture crucial to livability, so we gave higher rankings to cities that scored highly on the Arts & Leisure index created by Sperling's Best Places. We averaged the rankings for each of these metrics to arrive at a final score.

Ogden, Utah, No. 2 on our list, is home to Weber State University. Unemployment in the metro is below average, and incomes have increased by 3.4 percent over the last five years. Provo, Utah, a city 80 miles away and our No. 3 most livable, is home to Brigham Young University, the country's largest private college. The metro has the highest five-year income growth, 5.2 percent, of all the cities measured. Lincoln, Neb., (No. 9), home to the University of Nebraska's main campus, boasts the lowest unemployment rate , 4.9 percent, of all the metros we surveyed. Unemployment is also at a low 5.9 percent in Omaha, Neb. (No. 5) home to a University of Nebraska campus and roughly a dozen other colleges.

Cities once driven by jobs in steel manufacturing, railroads and textile mills suffered as those industries dried up in the 1970s. But it's a mistake to write off places like Pittsburgh, Pa., Harrisburg, Pa., and Manchester, N.H., Nos. one, five and seven on our list, respectively. Manchester, once dominated by textile mills, is revitalizing itself, converting its maze of mills and foundries into medical centers, museums and apartment buildings that now drive the local economy. The city has the second-lowest crime rate of all the metros we surveyed, incomes have grown 3 percent in five years, and at 7.7 percent, its unemployment rate is below the national average.

In only a few of our most livable cities does population growth match prospects for employment and inexpensive living. Provo saw an 8 percent population boom between 2000 and 2006, and the head count in Omaha rose by 7.2 percent over the same period. In most of the cities on the list, however, the population has shrunk, or grown only by meager percentages, suggesting that word about the quality of life there hasn't yet gotten out. Being a well-kept secret is just fine for some residents.

''I'm a big proponent of Pittsburgh,'' says Hermann. ''But I don't want to spread the message too much.''

TRIBUTE TO KATHLEEN McGHEE

Mr. BOND. Mr. President, today I rise to pay tribute to one of the most widely respected professional staff members in the Senate—Kathleen McGhee. She recently marked her 30th anniversary with the Senate Select Committee on Intelligence and has been serving here longer than I have been serving as a U.S. Senator.

Kathleen joined the committee staff on April 7, 1980, in order to assist the committee's arms control expert. She subsequently provided administrative support to the committee's budget director, minority counsel, and minority staff director. In 1987, Chairman David L. Boren appointed Kathleen as the chief clerk of the Intelligence Committee, a position she has held ever since. She has served 11 chairmen, 12 vice chairmen, and 278 staff members since joining the staff.

Kathleen is the longest serving staff member and the longest serving chief clerk in the committee's history, but you would not know it by looking at her. I have it on good authority that she is just as bright and energetic today as she was more than 20 years ago. If only we all were so fortunate.

In a world where politics often seems to define who we are and with whom we associate, Kathleen transcends those barriers. She has earned the deep respect of Members and colleagues on both sides of the aisle. Her work ethic—as evidenced by long hours and ready availability—and her attention to detail are admired by all.

During my tenure on the Intelligence Committee, and in particular, since becoming the vice chairman, I have benefited from Kathleen's behind-the-scenes orchestration of committee activities. She supervises the administrative support staff of the committee, manages all of the day-to-day operations, and is responsible for the preparation and implementation of the committee's operating budget. Simply put—the committee would cease to function without Kathleen at the helm; she has kept the place running like a Swiss watch. We all know that the demands of working in Congress often take the greatest toll on those who support us and sustain us in life—our families. For selflessly giving Kathleen to us for so many years, her husband Mike, son Luke, and daughter Molly deserve our gratitude. We thank them for their sacrifices.

Ensuring our great Nation's security is a high calling and one of tremendous responsibility. Through her service to the Intelligence Committee, the U.S. Senate, and the United States of America, Kathleen McGhee has answered this call with outstanding professionalism, integrity, and perseverance. Although I will be retiring at the end of this Congress, it is my hope that Kathleen will continue to honor the Senate with her service for many years to come. May God bless Kathleen and her family.

ADDITIONAL STATEMENTS

NEW MEXICO'S NATIONAL SCIENCE BOWL WINNER

• Mr. BINGAMAN. Mr. President, today I congratulate a group of middle school students from Albuquerque Academy in Albuquerque, NM, for winning the top prize at this year's National Science Bowl. This is an outstanding and well-deserved achievement after all their hard work throughout this competition, both in Albuquerque and here in Washington, DC.

Every year since 1991 the U.S. Department of Energy has sponsored the National Science Bowl to encourage high school students to excel in mathematics and science. In 2002 a contest was introduced for middle school students, which now involves more than 5,000 students nationwide. This year there was an academic question and answer competition as well as a model hydrogen fuel cell car challenge. By encouraging math and science education, competitions like these are helping to create a technically trained and diverse workforce for this generation and the next.

Teammates Andy Chen, Jason Frank Hou, Ben Zolyomi, Eric Li, Raya Koreh, and their coach Barbara Gilbert came to Washington, DC, to compete against 37 middle school regional Science Bowl champions in the National Finals. On Monday, May 3, they answered many challenging questions pertaining to biology, geology, and other areas of science. They even answered a few bonus questions from First Lady Michelle Obama, who later awarded them their trophy, along with Secretary of Energy Stephen Chu. I realize how much studying it takes to prepare for a competition as rigorous as this, and I commend them on their hard-earned reward. It has certainly paid off. Their success should be applauded as this truly is a remarkable feat.

When they return home to New Mexico, I hope their fellow students and teachers are as encouraged as I am by their accomplishment. It is vitally important that talent like this doesn't go unnoticed as these young students will likely be among those helping to find solutions to some of the future's most challenging problems. I believe this team's success demonstrates how the United States, and New Mexico in particular, has potential to produce some of tomorrow's scientific leaders and innovators. That is why I hope these students will continue to pursue their intellectual interests and one day join a critical sector within our workforce.

I have always believed that investing in science and technology in our schools is essential in ensuring that the United States maintains a competitive edge to provide for our nation's economic strength and security. Our students' success depends on the quality of their educational opportunities today, and the talent demonstrated by these students makes me very optimistic about the future.

Again, I commend them on this outstanding achievement and wish them the best of luck in the future.•

RECOGNIZING EL CAMINO REAL HIGH SCHOOL

• Mrs. BOXER. Mr. President, I wish to recognize the great work and remarkable accomplishments of El Camino Real High School's Academic Decathlon team for winning the 2010 Academic Decathlon and its sixth National Championship. Members of the National Championship team include: Vivian Cheng, Daniel de Haas, Evan Edmisten, Andrew Fann, Audrey Goldbaum, Jessica Lin, Daniel Moreh, Adriana Ureche, Michael Walker, and team coaches John Dalsass, and Stephanie Franklin.

With this win, El Camino Real High School has earned the distinction of becoming six-time Academic Decathlon National Champions and nine-time State Champions. This milestone gives El Camino Real High School the distinction of being the Nation's all-time leader in national academic decathlon championships.

Competing in an Academic Decathlon is a daunting task. The Academic Decathlon's intense two-day national final competitions include multiple-choice testing in seven different events, speeches, essay writing, and interviewing exercises. Students spend many hours studying, practicing, and competing, often away from their family and friends. I invite all of my colleagues to join me, the Woodland Hills community and the State of California in congratulating California's El Camino Real High School Academic Decathlon team for becoming 2010 National Academic Decathlon Champions.•

NATIVE HAWAIIAN AND PACIFIC ISLANDER NURSING GRADUATES

• Mr. INOUYE. Mr. President, today I wish to commemorate the graduation of the first 100 Native Hawaiian and Pacific Islander nurses from the University of Hawaii at Manoa. As a proud supporter of the nursing profession, I am pleased to recognize IKE AO PONO, the Workforce Diversity Program for Native Hawaiian and Pacific Islander nursing students at the School of Nursing and Dental Hygiene.

On May 7, 2010, IKE AO PONO will commemorate a historic achievement in celebrating the graduation of the first 100 Native Hawaiian and Pacific Islander nurses from its program in only 6 years, contributing more Native Hawaiian and Pacific Islander nurses to workforce diversity in Hawaii than in the previous 80 years. As an academic support and cultural enrichment program, IKE AO PONO's mission is to increase the number of Native Hawaiian and Pacific Islander nurses in Hawaii to improve health and health care, with special attention to at-risk, underrepresented, and underserved peoples and communities.

IKE AO PONO envisions a lasting improvement, advancement, and promotion of health for Native Hawaiian and Pacific Islander peoples and communities by increasing the number of culturally informed and sensitive health professionals in nursing. This increase in Native nurses will help to address the dire health disparities of both Native Hawaiian and Pacific Islanders who have higher rates of diseases such as cancer, diabetes and obesity, heart disease and an overall mortality rate that is significantly higher than other cultural groups in Hawaii.

While the 2000 census showed Native Hawaiians as 23 percent of Hawaii's population, they represented only 7 percent of the University of Hawaii's students, only 2 percent of the UH faculty and administration, and only 4 percent of the nursing workforce. Therefore, in 2001, IKE AO PONO began as a 3-year pilot program with six Native Hawaiian students. By year 3, the numbers of Native Hawaiian and Pacific Islander nursing students had grown to 66 per semester. Between 2004 and 2010, the number of Native Hawaiian and Pacific Islander nursing students increased again to 80 students per semester in both undergraduate and graduate programs. During this time, IKE AO PONO helped graduate the first Native Hawaiian and the first Samoan Ph.D.s in nursing in the 80-year history of the School of Nursing and Dental Hygiene.

Through the IKE AO PONO Program, there are currently 14 times the number of Native Hawaiian and Pacific Islander nurses at the School of Nursing and Dental Hygiene than in 2000, and many are focused on higher degrees in advanced public health, community, health, family health and nurse practitioner fields, as well as, a full range of other nursing specialties.

With the full support of the School of Nursing and Dental Hygiene, the UH Administration and Board of Regents, the Native Hawaiian Councils of Kualii and Pukoa and community partners such as Papa Ola Lokahi, Kamehameha Schools, Queen's Medical Center and the Office of Hawaiian Affairs, IKE AO PONO is also preparing Native nurses to return to their home communities to support the health, well-being and recovery of underserved Native islanders in rural areas throughout Hawaii.●

TRIBUTE TO DR. EARL S. RICHARDSON

● Ms. MIKULSKI. Mr. President, I am proud today to recognize one of Maryland's native sons, Dr. Earl S. Richardson, who will retire later this month after a quarter century at the helm of one of Maryland's finest institutions of higher education: Morgan State University.

Situated in the northern part of Baltimore City, Morgan State University has been designated as Maryland's Urban Public University. It is also one of four exemplary public historically Black universities, HCBUs, in the State of Maryland, each of which has been offering students a chance and a choice when it comes to higher ed for more than 100 years.

Institutions like these across the country have been accruing an incredible benefit to African Americans and the communities they serve. Historically Black colleges and universities produce nearly a quarter of our Nation's African-American public school teachers. They also produce almost 40 percent of African-American graduates in physics, math, biology, and environmental sciences.

Morgan State has been no exception. During Dr. Richardson's tenure, the university has seen enrollment increase by 35 percent—margins that exceed any other public college or university in the State. But the quality of applicants has not suffered; Morgan State was able to swell its student ranks while attracting top-notch students. Morgan State now offers 14 doctoral programs and is known nationally and internationally for its doctoral programs in engineering and the sciences. Morgan consistently graduates a majority of all African Americans in Maryland with Ph.D.s in engineering. These graduates are among the most sought after by American industry. In addition, Morgan's patriotic tradition through its strong Army ROTC program is exemplified by the fact that it has produced more four-star African-American generals in the U.S. Army than any institution in the Nation except West Point.

Over the last 10 years, Morgan State has graduated 10 percent of the Nation's African-American undergraduates pursuing a degree in physics. Also, under Dr. Richardson's leadership, Morgan State currently leads all other public institutions in the State in bachelor's degrees earned by African Americans. The university also leads the State in graduating math, science and engineering undergrads—a critical achievement given our country's need to cultivate graduates ready to enter a 21st century workforce, where mastery of math and science is the name of the game. Morgan is also one of the leading producers of Fulbright Scholars in the Mid-Atlantic region.

Dr. Richardson's vision and leadership didn't end there. He also found time to sit on President Clinton's advisory board on HBCUs, serving as its chair in 1998; was chairman of the National Association for Equal Opportunity in Higher Education, NAFEO; and participate as a member of the American Council on Education, ACE. I have no doubt that his contributions will benefit current and future students from across the Nation for years to come.

But more than all of these accolades, Dr. Richardson's tenure as president of Morgan has been about fighting for opportunity for young people from often economically challenging backgrounds and neighborhoods, many the first in their family to attend college. His steadfast commitment to provide them with an urban university that provides them with the means to a better way of life and a career in the sciences or business or engineering, is a testament to his belief that a college degree is often the helping hand young people need to achieve success and realize their full potential.

I have been a member of the Senate nearly as long as Dr. Richardson has been president at Morgan State, and over the past two decades I have had the pleasure of enjoying this great man's support and friendship.

On behalf of myself, and speaking for the thousands of students who have matriculated at Morgan over the past 25 years, I would like to recognize and thank my friend, Dr. Earl Richardson, for a lifetime of extraordinarily distinguished service in the field of education. Well done!●

RECOGNIZING WILDER'S JEWELRY

● Ms. SNOWE. Mr. President, this weekend, Americans celebrate Mothers Day, a time to pay tribute to the women in our lives and the incredible work that they do every day. As is frequently noted, women often juggle the dual roles of being a mother and maintaining a professional career. This situation is made even more difficult for the roughly 10.4 million women who are small business owners. Indeed, women-owned small businesses are one of the fastest growing segments of our Nation's economy. To highlight the work of one mother in my home State who is simultaneously running an historic small business in northern Maine, today I recognize the accomplishments of Cathy Beaulieu, the owner of Wilder's Jewelry in Presque Isle, for her steadfast dedication to small business, to her community, and, of course, to her family.

Cathy grew up in the St. John Valley, a stunning beautiful and scenic region at Maine's crest, where she was instilled with the famous work ethic of Maine's strong people. After exploring other places, she returned to Aroostook County—known to locals as simply ''the County.'' She went to work at Wilder's Jewelry store, a fixture in downtown Presque Isle which was originally opened by Ike Wilder nearly 80 years ago. His son, Harry, continued the family business until 1996, when Cathy purchased the business from him, along with the historic building where it is located.

Wilder's sells a wide array of jewelry that will fit any budget, from traditional fine diamonds, rings, and watches to more contemporary costume jewelry, as well as stunning giftware items. Wilder's also offers customers unique, handmade gifts such as ''knobstoppers''—golf balls or old door knobs fitted with wine corks—to cap wine bottles. Wilder's purchases some of its products from an organization called Sarah's Hope, which funds microloans to help budding women entrepreneurs hone their craft and grow their businesses. By appealing to everyone, Wilder's has thrived through some of the most difficult economic times our country has seen in decades.

Another reason for her success is Cathy's visible and passionate concern for her community. She has served as the president of the Greater Presque Isle Area Chamber of Commerce, as well as president of the Downtown Revitalization Committee, and she remains active in promoting the well-being of her city, attending city council meetings and speaking out on issues of concern to the community.

Cathy also donates time, money, and resources to numerous charities throughout Aroostook County, from the Wintergreen Arts Center to the Presque Isle Rotary Club's annual Radio-TV auction, as well as a number of veteran causes. She also frequently sponsors trade shows in the area, and seven years ago helped begin a new annual Presque Isle tradition called Main Street Mania, a block party-style event where Main Street is shut to vehicular traffic while downtown businesses offer bargains to the maze of expectant shoppers. Cathy is also actively involved in a variety of school activities with her three beautiful children.

I have had the pleasure of meeting Cathy Beaulieu on several occasions to hear her views on the difficulties concerning running a small business in Maine, and I have always come away impressed by her passion, determination, and perseverance. By raising a family and running a business at the same time, she is a shining example of Maine's motto, ''Dirigo''—or ''I lead.'' Cathy Beaulieu is truly a leader, and I thank her for all of her noteworthy efforts in running a successful business, supporting her community, and raising her family.●

MESSAGE FROM THE HOUSE

At 10:11 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2421. An act to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 247. A concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

H. Con. Res. 263. A concurrent resolution authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2421. An act to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5744. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, notification of the Department's intent to close the Defense commissary store at Mineo, Italy; to the Committee on Armed Services.

EC–5745. A communication from the Deputy to the Chairman for External Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the Temporary Liquidity Guarantee Program to Extend the Transaction Account Guarantee Program with Opportunity to Opt Out'' (RIN3064–AD37) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5746. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 31'' (RIN0648–AX67) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5747. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Yolo-Solano Air Quality Management District'' (FRL No. 9138–6) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC–5748. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Regulation of Fuels and Fuel Additives: Alternative Affirmative Defense Requirements for Ultra-low Sulfur Diesel and Gasoline Benzene Technical Amendment'' (FRL No. 9147–4) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC–5749. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program'' (FRL No. 9147–6) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC–5750. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2010'' (FRL No. 9147–8) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC–5751. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Disapproval of State Implementation Plan Revisions, South Coast Air Quality Management District'' (FRL No. 9146–5) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC–5752. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Lake and Porter Counties to Attainment for Ozone'' (FRL No. 9147–2) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC–5753. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans, State of California, San Joaquin Valley Unified Air Pollution Control District, New Source River'' (FRL No. 9141–3) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC–5754. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio; Indiana; Redesignation of the Ohio and Indiana Portions of the Cincinnati-Hamilton Area to Attainment for Ozone'' (FRL No. 9147–3) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC–5755. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Ohio; General Provisions'' (FRL No. 9142–7) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC–5756. A communication from the Chief, Branch of Listing, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Revised Critical Habitat for Hine's Emerald Dragonfly (Somatochlora hineana)'' (RIN1018–AW47) received in the Office of the President of the Senate on May 4, 2010; to the Committee on Environment and Public Works.

EC–5757. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, a report relative to endangered and threatened species expenditures; to the Committee on Environment and Public Works.

EC–5758. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''December 2009 Revision of Form 3115'' (Announcement No. 2010—32) received in the Office of the President of the Senate on May 4, 2010; to the Committee on Finance.

EC–5759. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to extending the ''Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of El Salvador Concerning the Imposition of Import Restrictions on Certain Categories of Archaeological Material from the Pre-Hispanic Cultures of the Republic of El Salvador''; to the Committee on Finance.

EC–5760. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the establishment of a Danger Pay Allowance for Ciudad Juarez, Matamoros, Monterrey, Nogales, Nuevo Laredo, and Tijuana, Mexico; to the Committee on Foreign Relations.

EC–5761. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the transfer of technical data, and defense services to the United Arab Emirates for modification, test, and certification of Cessna Model 208B Grand Caravans in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–5762. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, an annual report relative to programs and projects of the International Atomic Energy Agency (IAEA); to the Committee on Foreign Relations.

EC–5763. A communication from the Assistant Secretary for Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a report relative to certifications granted in relation to the incidental capture of sea turtles in commercial shrimping operations; to the Committee on Foreign Relations.

EC–5764. A communication from the Assistant General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a proposed rule entitled ''Employee Contribution Elections and Contribution Allocations; Methods of Withdrawing Funds from the Thrift Savings Plan'' (5 CFR Parts 1600 and 1650) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5765. A communication from the Program Manager, Substance Abuse and Mental Health Services Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Mandatory Guidelines for Federal Workplace Drug Testing Programs'' (RIN0930—ZA04) received in the Office of the President of the Senate on May 3, 2010; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 511. A resolution commemorating and acknowledging the dedication and sacrifices made by the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 714. A bill to establish the National Criminal Justice Commission.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BINGAMAN for the Committee on Energy and Natural Resources.

*Jeffrey A. Lane, of Virginia, to be an Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).

*Cheryl A. LaFleur, of Massachusetts, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2014.

*Philip D. Moeller, of Washington, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2015.

By Mr. LEAHY for the Committee on the Judiciary.

J. Michelle Childs, of South Carolina, to be United States District Judge for the District of South Carolina.

Richard Mark Gergel, of South Carolina, to be United States District Judge for the District of South Carolina.

Catherine C. Eagles, of North Carolina, to be United States District Judge for the Middle District of North Carolina.

Kimberly J. Mueller, of California, to be United States District Judge for the Eastern District of California.

Parker Loren Carl, of Kentucky, to be United States Marshal for the Eastern District of Kentucky for the term of four years.

Gerald Sidney Holt, of Virginia, to be United States Marshal for the Western District of Virginia for the term of four years.

Robert R. Almonte, of Texas, to be United States Marshal for the Western District of Texas for the term of four years.

Jerry E. Martin, of Tennessee, to be United States Attorney for the Middle District of Tennessee for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. WHITEHOUSE:

S. 3320. A bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TESTER:

S. 3321. A bill to establish an advisory committee to issue nonbinding governmentwide guidelines on making public information available on the Internet, to require publicly available Government information held by the executive branch to be made available on the Internet, to express the sense of Congress that publicly available information held by the legislative and judicial branches should be available on the Internet, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. VOINOVICH (for himself, Ms. MURKOWSKI, and Mr. ALEXANDER):

S. 3322. A bill to amend the Atomic Energy Act of 1954 to establish a United States Nuclear Fuel Management Corporation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself and Mr. COBURN):

S. 3323. A bill to improve the management and oversight of Federal contracts, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BROWN of Ohio (for himself, Mr. SCHUMER, Mr. MERKLEY, Mr. CASEY, and Mrs. HAGAN):

S. 3324. A bill to amend the Internal Revenue Code of 1986 to extend the qualifying advanced energy project credit; to the Committee on Finance .

By Mr. BEGICH (for himself and Mr. GRASSLEY):

S. 3325. A bill to amend title 38, United States Code, to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. CANTWELL (for herself, Mr. KERRY, and Mrs. BOXER):

S. 3326. A bill to provide grants to States for low-income housing projects in lieu of low-income housing credits, and to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of the low-income housing credit, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Mr. BROWN of Massachusetts):

S. 3327. A bill to add joining a foreign terrorist organization or engaging in or supporting hostilities against the United States or its allies to the list of acts for which United States nationals would lose their nationality; to the Committee on the Judiciary.

By Mrs. LINCOLN (for herself and Ms. LANDRIEU):

S. 3328. A bill to examine and improve the child welfare workforce, and for other purposes; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 182

At the request of Mr. DODD, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 182, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 565

At the request of Mr. DURBIN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 565, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 688

At the request of Ms. SNOWE, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 688, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 752

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 752, a bill to reform the financing of Senate elections, and for other purposes.

S. 1011

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1011, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

S. 1066

At the request of Mr. SCHUMER, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 1113

At the request of Mr. PRYOR, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1113, a bill to amend title 49, United States Code, to direct the Secretary of Transportation to establish and maintain a national clearinghouse for records related to alcohol and controlled substances testing of commercial motor vehicle operators, and for other purposes.

S. 1151

At the request of Mr. ROCKEFELLER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1151, a bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being.

S. 1158

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1158, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 1425

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1425, a bill to increase the United States financial and programmatic contributions to promote economic opportunities for women in developing countries.

S. 1553

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1802

At the request of Mr. BURRIS, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1802, a bill to require a study of the feasibility of establishing the United States Civil Rights Trail System, and for other purposes.

S. 1938

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1938, a bill to establish a program to reduce injuries and deaths caused by cellphone use and texting while driving.

S. 2765

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2765, a bill to amend the Small Business Act to authorize loan guarantees for health information technology.

S. 2881

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2881, a bill to provide greater technical resources to FCC Commissioners.

S. 3036

At the request of Mr. BAYH, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3039

At the request of Mr. UDALL of New Mexico, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 3039, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 3058

At the request of Mr. DORGAN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3059

At the request of Mr. BINGAMAN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 3059, a bill to improve energy efficiency of appliances, lighting, and buildings, and for other purposes.

S. 3079

At the request of Mr. MERKLEY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 3079, a bill to assist in the creation of new jobs by providing financial incentives for owners of commercial buildings and multifamily residential buildings to retrofit their buildings with energy efficient building equipment and materials and for other purposes.

S. 3102

At the request of Mr. MERKLEY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3102, a bill to amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds to make loans to consumers to implement energy efficiency measures involving structural improvements and investments in cost-effective, commercial off-the-shelf technologies to reduce home energy use.

S. 3211

At the request of Mrs. SHAHEEN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 3211, a bill to amend title XVIII of the Social Security Act to improve access to diabetes self-management training by designating certain certified diabetes educators as certified providers for purposes of outpatient diabetes self-management training services under part B of the Medicare Program.

S. 3265

At the request of Mr. MCCAIN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 3265, a bill to restore Second Amendment rights in the District of Columbia.

S. 3266

At the request of Mr. BENNET, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Nebraska (Mr. JOHANNS) were added as cosponsors of S. 3266, a bill to ensure the availability of loan guarantees for rural homeowners.

S. 3299

At the request of Mr. WYDEN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 3299, a bill to amend the Help America Vote Act of 2002 to allow all eligible voters to vote by mail in Federal elections.

S. 3300

At the request of Mr. WYDEN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 3300, a bill to establish a Vote by Mail grant program.

S. 3305

At the request of Mr. MENENDEZ, the names of the Senator from Delaware (Mr. KAUFMAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3305, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S. 3306

At the request of Mr. MENENDEZ, the names of the Senator from Delaware (Mr. KAUFMAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3306, a bill to amend the Internal Revenue Code of 1986 to require polluters to pay the full cost of oil spills, and for other purposes.

S. 3309

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3309, a bill to amend the Internal Revenue Code of 1986 to modify the rate of tax for the Oil Spill Liability Trust Fund.

S. 3313

At the request of Mr. ENSIGN, his name was added as a cosponsor of S. 3313, a bill to withdraw certain land located in Clark County, Nevada from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials, and for other purposes.

S.J. RES. 29

At the request of Mr. MCCONNELL, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. RES. 316

At the request of Mr. MENENDEZ, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. Res. 316, a resolution calling upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide, and for other purposes.

S. RES. 503

At the request of Mr. WHITEHOUSE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 503, a resolution designating May 21, 2010, as ''Endangered Species Day''.

S. RES. 511

At the request of Mr. LEAHY, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Res. 511, a resolution commemorating and acknowledging the dedication and sacrifices made by the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty.

AMENDMENT NO. 3733

At the request of Mr. BROWN of Ohio, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Arkansas (Mr. PRYOR) and the Senator from Virginia (Mr. WEBB) were added as cosponsors of amendment No. 3733 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3738

At the request of Mr. DODD, his name was added as a cosponsor of amendment No. 3738 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

At the request of Mr. SANDERS, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 3738 proposed to S. 3217, supra.

AMENDMENT NO. 3746

At the request of Mr. WHITEHOUSE, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Virginia (Mr. WEBB) were added as cosponsors of amendment No. 3746 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3749

At the request of Mr. TESTER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 3749 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3754

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 3754 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3759

At the request of Mrs. HUTCHISON, the names of the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from North Carolina (Mrs. HAGAN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of amendment No. 3759 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3765

At the request of Mr. FRANKEN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 3765 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3766

At the request of Mr. DURBIN, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of amendment No. 3766 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3768

At the request of Mr. DURBIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from Oregon (Mr. MERKLEY) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of amendment No. 3768 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3771

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of amendment No. 3771 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3775

At the request of Mr. WYDEN, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Colorado (Mr. BENNET) were added as cosponsors of amendment No. 3775 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3778

At the request of Mr. UDALL of Colorado, the names of the Senator from Delaware (Mr. KAUFMAN), the Senator from Oregon (Mr. MERKLEY) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of amendment No. 3778 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3780

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 3780 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3786

At the request of Ms. CANTWELL, the names of the Senator from Oregon (Mr. MERKLEY), the Senator from Ohio (Mr. BROWN), the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 3786 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3799

At the request of Mrs. HAGAN, the names of the Senator from North Carolina (Mr. BURR), the Senator from Virginia (Mr. WEBB) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of amendment No. 3799 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3807

At the request of Mrs. HAGAN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of amendment No. 3807 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3808

At the request of Mr. FRANKEN, the names of the Senator from Oregon (Mr. MERKLEY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of amendment No. 3808 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3809

At the request of Mr. INOUYE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 3809 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3812

At the request of Mr. HARKIN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of amendment No. 3812 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3823

At the request of Mr. LEAHY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of amendment No. 3823 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3832

At the request of Mr. SESSIONS, the names of the Senator from Texas (Mr. CORNYN), the Senator from South Dakota (Mr. THUNE) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of amendment No. 3832 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3833

At the request of Mrs. HUTCHISON, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of amendment No. 3833 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3844

At the request of Mr. BROWNBACK, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of amendment No. 3844 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3849

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 3849 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3852

At the request of Mr. DEMINT, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of amendment No. 3852 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3854

At the request of Mr. REED, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 3854 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3857

At the request of Mr. REED, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of amendment No. 3857 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3858

At the request of Mr. REED, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 3858 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself and Mr. COBURN):

S. 3323. A bill to improve the management and oversight of Federal contracts, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Mr. President, today I am introducing the bipartisan Federal Contracting and Oversight Act. Every year millions of taxpayer dollars are awarded to contractors with a history of poor performance and misconduct because our federal contracting oversight regime, though well-intentioned, is broken.

The problems in our contracting oversight regime were first brought to my attention by my constituents in Wisconsin, several of whom are small businesses that have suffered as a result of misconduct by a Federal contractor. In one case, a Federal contractor that has received over $6 million in Federal contracts failed to pay small businesses in Wisconsin that worked as subcontractors. Several years later, the Army finally barred the contractor from receiving Federal dollars, finding that the contractor had ''a documented history of failing to pay subcontractors for services rendered pursuant to government contracts.'' We must ensure that these records of poor performance and misconduct are identified before federal contracts are awarded to contractors, not years later after the damage has already been done.

As I studied the issue further, I learned that similar problems were widespread and well documented. The Government Accountability Office has documented numerous instances of suspended and debarred companies continuing to receive federal contracts. In one case, a company that had been debarred for attempting to ship nuclear bomb parts to North Korea continued to receive millions of dollars on an Army contract. In another case, a contractor that had been suspended after one of its employees was found to have sabotaged repairs on an aircraft carrier was awarded three new contracts a month after the incident.

We must act to ensure that these incidents do not repeat themselves. American taxpayer dollars should be spent responsibly and the flaws of our contracting process should never be allowed to affect our security.

Our Federal contracting process is in urgent need of reform and greater oversight. To that end, I am introducing the Federal Contracting and Oversight Act, which is an important step to prevent the continued Federal patronage of private companies unworthy of our taxpayers' hard-earned dollars.

I am encouraged that Senator COBURN has also taken note of the flaws of the Federal contracting process and has joined me in this effort as an original cosponsor. This bill also has the support of experts that closely track our federal contracting process, including the Project on Government Oversight, the Center for American Progress, Taxpayers for Common Sense, and OMB Watch.

This bill will protect the hard-earned dollars of American taxpayers by improving the federal contracting system in three ways:

First, this bill will make the system more transparent.

Sunshine continues to be the best disinfectant; unfortunately, some of the most important data concerning contractor performance and misconduct is shielded from the scrutiny of the full Congress and American people.

This bill will broaden access to the new Federal Awardee Performance and Integrity Information System, FAPIIS, database, which contains a comprehensive picture of the records of Federal contractors including details of criminal, civil, and administrative proceedings, contract defaults, suspension and debarments, and other violations of federal acquisition laws.

Under my bill, every member of Congress will be able to access the database in order to review the records of contractors. This is an important step towards greater transparency in our contracting oversight system. Each member of Congress has an interest in monitoring how the taxpayer dollars of their constituents are being spent.

Second, this bill will empower our contracting officers by giving them the tools and resources they need to adequately vet companies seeking Federal dollars.

Contracting officers currently make award decisions with only a limited set of information that is insufficient to support an informed decision. These contracting officers often lack the information they need to adequately review a company's contracting history.

This bill helps ensure that these officers have a more comprehensive picture of a company's contracting history before they make an award decision. Under this bill, the information available to them will include information on a broader range of misconduct, such as that occurring over 5 years ago, pertaining to a wider range of contracts or resulting in a more inclusive list of legal proceedings. This bill also requires companies vying for Federal dollars to self-report essential details about their past performance before they can receive a contract award. Together, these provisions will help ensure that those officials entrusted with awarding Federal contract dollars have all the resources they need to make an informed decision.

Third, this bill will strengthen the current oversight regime by fixing loopholes and shortcomings that have undermined its effectiveness. An oversight regime can only be effective if it is used, and used properly. It is unacceptable that taxpayer dollars continue to go to companies that have already been suspended or debarred, just because contracting officers have failed to either record or check their status.

Accordingly, this bill tasks the Comptroller General with producing an annual report on the extent to which companies that have been suspended and debarred continue to receive federal contracts or waivers to receive federal contracts. This is an important step towards ensuring that the problems in our contracting process receive the congressional and public scrutiny they deserve. This bill also requires the Inspectors General of each federal agency involved in the procurement process to conduct an annual audit to ensure that contracting officials are appropriately considering the past performance and misconduct of contractors.

The source of the oversight regime's ineffectiveness also lies in its design, which is in need of both consolidation and modernization.

When contracting officials begin to review a company's contracting history, the information they need is spread across numerous databases. They have to navigate an unorganized array of databases, including: the Excluded Parties List System, Central Contractor Registry, Contractor Performance Assessment Reporting System, Federal Assistance Award Data System, Federal Awardee Performance and Integrity Information System, Federal Business Opportunities Database, Federal Procurement Data System-Next Generation, Past Performance Information Retrieval System, and USAspending.gov, among others.

We must integrate these databases to ensure that contracting officials have a one-stop source for relevant contracting information. I am pleased that the General Services Administration has taken some positive steps in this direction, but any consolidation must be comprehensive. Accordingly, this bill requires the Office of Management and Budget to develop and submit a plan to integrate and consolidate the nine most important databases into a single searchable and linked network.

Another reason why suspended and debarred companies continue to receive federal contracts in error is because the unique identification system used to track companies is ineffective and in need of modernization. The Government Accountability Office has documented that the current identification system fails to adequately track subsidiaries, spin-offs, shell companies, and other related entities. This weak tracking system permits some suspended and debarred companies to access federal dollars to which they are not legally entitled.

To that end, this bill requires the Inspector General of the General Services Administration to determine whether the existing system of identifying numbers for contractors is adequately tracking Federal contractors, and develop a plan for developing and adopting a new and more robust identification system.

I urge my colleagues to support this bill. The American people entrust us with their hard-earned tax dollars, and we have a responsibility to ensure that their money is being spent appropriately.

By Mr. BEGICH (for himself and Mr. GRASSLEY):

S. 3325. A bill to amend title 38, United States Code, to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. BEGICH. Mr. President, today I rise to introduce legislation to amend title 38, related to this Nation's obligation to provide benefits to our veterans. Specifically, the bill I introduce today with my distinguished colleague, Senator GRASSLEY of Iowa will waive collection of copayments for telehealth and telemedicine visits for veterans.

More than 42,000 veterans are receiving care in their homes, enrolled in the Veterans Health Administration, VHA, Telemedicine program as one form of treatment. In Alaska, as of March 2010, there were 226 veterans receiving this service. Just over 100 of those live in rural Alaska.

Home Telehealth programs provide needed care for the 2–3 percent of veterans who account for 30 percent or more of agency resources. These men and women are frequent clinic attendees and often require urgent hospital admissions. VHA programs have demonstrated reduced hospital admissions and clinic and emergency room visits, and contribute to an improved quality of life for our veterans.

For no group of veterans is this service more important than for those who live in rural and remote Alaska. Telemedicine has become an increasingly integral component in addressing the needs of veterans residing in rural and remote areas, and is critical to ensuring they have proper access to health care, especially in rural areas.

While the VHA is saving taxpayers money by using telemedicine, currently all telemedicine visits require veterans receiving these treatments to make copayments. My legislation would implement a simple fix. It would waive the required copayments—sometimes up to $50.00 per visit—to lessen the burden on our veterans, who have sacrificed in service to our great Nation. I believe that waiving these fees may encourage more veterans to take advantage of VHA's telehealth programs, which can be a godsend for rural veterans with few other viable options.

For rural veterans in Alaska, who have to travel by small float planes or boats or even snow machines to get to the nearest clinic for monitoring of their diabetes, high blood pressure, or other chronic conditions, Congress can go a long way in repaying this Nation's debt to our veterans by passing this legislation.

The VHA plans to expand Home Telehealth for weight management, substance abuse, mild traumatic brain injury, dementia, and palliative care, as well as enabling veterans to use mobile devices to access care. I would hate to see these vital services go unused by veterans living in remote Alaskan villages because of the cost of copayments. But, this is not primarily about saving veterans money. This is about the Federal Government doing what is good for our veterans. The monetary benefits for veterans are a plus.

Basically, this legislation will amend title 38 to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans by giving the Secretary the authority to do so.

In closing, I must say it is an honor for me to serve as a member of the Senate Veterans' Affairs Committee. I feel very privileged to be involved with policy formation that helps our veterans, and indeed to be at the same table as the distinguished chairman of the committee, a veteran of World War II himself, Senator DANIEL AKAKA, who throughout his service in Congress has been a true advocate for our veterans. I appreciate the guidance he has provided me, and the assistance his staff has provided mine in preparation of this legislation.

This is a bipartisan bill to address an issue with no partisan connection. I strongly encourage my colleagues to join Senator GRASSLEY and me in cosponsoring this legislation, and I urge expeditious consideration of the legislation to address a growing need for our rural veterans.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3860. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, and Mr. JOHANNS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 3861. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, Mr. CORKER, and Mr. JOHANNS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3862. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3863. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3864. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3865. Mr. GREGG (for himself and Mr. JOHANNS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3866. Mr. WYDEN (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3867. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3868. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3869. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3787 submitted by Mr. BROWN of Ohio (for himself and Mr. KAUFMAN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3870. Mr. KERRY (for himself, Mr. BROWN of Massachusetts, and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3871. Mr. CARDIN submitted an amendment intended to be proposed to amendment

SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3872. Mr. BROWN of Massachusetts (for himself, Mr. KERRY, and Mr. GREGG) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3873. Mr. DEMINT (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3874. Mr. PRYOR (for himself, Mr. BAUCUS, Mr. TESTER, Mrs. SHAHEEN, Mr. JOHNSON, Mr. BENNET, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3875. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3775 submitted by Mr. WYDEN (for himself and Mr. GRASSLEY) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3876. Mr. MENENDEZ (for himself and Mr. BURRIS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3877. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3878. Mr. CASEY (for himself, Mr. BROWN of Ohio, and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3879. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3880. Mr. BYRD (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3881. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3882. Mr. CORKER (for himself, Mr. GREGG, Mr. SHELBY, Mrs. HUTCHISON, Mr. LEMIEUX, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3883. Ms. SNOWE (for herself and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3884. Ms. CANTWELL (for herself, Mr. MCCAIN, Mr. KAUFMAN, Mr. HARKIN, Mr. FEINGOLD, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3885. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3886. Mr. ROCKEFELLER (for himself and Mr. BYRD) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3887. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, Mr. CORKER, and Mr. JOHANNS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3888. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3889. Mr. AKAKA (for himself, Mr. MENENDEZ, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3890. Mr. BAYH (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3891. Mr. CASEY (for himself, Mrs. GILLIBRAND, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3892. Mr. BINGAMAN (for himself, Ms. MURKOWSKI, Mr. REID, Mr. BROWNBACK, Ms. CANTWELL, Mr. CORNYN, Mr. WYDEN, and Mr. CORKER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3893. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3894. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3895. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3896. Mr. GREGG (for himself, Mr. BROWN of Massachusetts, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3897. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3898. Mr. ENSIGN proposed an amendment to amendment SA 3733 proposed by Mr. BROWN of Ohio (for himself, Mr. KAUFMAN, Mr. CASEY, Mr. WHITEHOUSE, Mr. MERKLEY, Mr. HARKIN, Mr. SANDERS, and Mr. BURRIS) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3899. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3900. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3901. Mr. CARDIN (for himself, Mr. ENZI, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3902. Mr. FRANKEN (for himself, Ms. SNOWE, Mrs. MURRAY, Mrs. SHAHEEN, Mr. SCHUMER, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. CASEY, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3903. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3904. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3905. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3906. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3907. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3908. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3909. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3860. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, and Mr. JOHANNS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1086, strike line 3 and all that follows through ''Not'' on page 1090, line 9, and insert the following:

SEC. 971. PROXY ACCESS.

(a) PROXY ACCESS.—Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

(1) by inserting ''(1)'' after ''(a)''; and

(2) by adding at the end the following:

''(2) The rules and regulations prescribed by the Commission under paragraph (1) may include—

''(A) a requirement that a solicitation of proxy, consent, or authorization by (or on behalf of) an issuer include a nominee submitted by a shareholder to serve on the board of directors of the issuer; and

''(B) a requirement that an issuer follow a certain procedure in relation to a solicitation described in subparagraph (A).''.

(b) REGULATIONS.—The Commission may issue rules permitting the use by shareholders of proxy solicitation materials supplied by an issuer of securities for the purpose of nominating individuals to membership on the board of directors of the issuer, under such terms and conditions as the Commission determines are in the interests of shareholders and for the protection of investors.

SEC. 972. DISCLOSURES REGARDING CHAIRMAN AND CEO STRUCTURES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 14A, as added by this title, the following:

"SEC. 14B. DISCLOSURES REGARDING CHAIRMAN AND CEO STRUCTURES.

''Not

SA 3861. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, Mr. CORKER, and Mr. JOHANNS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1089, strike line 6 and all that follows through ''**SEC. 973.**'' on page 1090, line 3, and insert the following:

SEC. 972.

SA 3862. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

In section 111(b)(1) of the amendment, strike subparagraph (A) and insert the following:

(A) the Chairperson of the Council, who—

(i) shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals having expertise in the financial services industry; and

(ii) may not, during such service, also serve as the head of any primary financial regulatory agency;

(B) the Secretary of the Treasury;

SA 3863. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, between lines 2 and 3, insert the following:

(I) the Chairman of the National Credit Union Administration; and

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SA 3864. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, between lines 2 and 3, insert the following:

(I) a State insurance commissioner—

(i) to be designated using a selection process determined by the insurance commissioners of the States; and

(ii) who shall serve for a term of not longer than 2 years; and

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SA 3865. Mr. GREGG (for himself and Mr. JOHANNS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 513, strike line 21 and all that follows through page 515, line 11.

SA 3866. Mr. WYDEN (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, add the following:

SEC. 123. DISCLOSURE OF FINANCIAL INTERESTS IN THE DECLINE IN VALUE OF FINANCIAL PRODUCTS.

(a) RECOMMENDATIONS BY COUNCIL.—Not later than 180 days after the date of enactment of this Act, the Council shall make recommendations to the primary financial regulatory agencies to require any seller of a financial product or instrument to disclose to the purchaser or prospective purchaser of that product—

(1) whether the seller has any direct financial interest in the decline in value of the product; and

(2) whether the seller has any direct financial interest in the increase in value of the product.

(b) PROCEDURES AND IMPLEMENTATION.—The procedural and implementation provisions of subsections (b) and (c) of section 120 shall apply to recommendations of the Council under this section.

SA 3867. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1034, strike line 8 and all that follows through line 21, and insert the following:

SEC. 935. CONSIDERATION OF INFORMATION FROM SOURCES OTHER THAN THE ISSUER IN RATING DECISIONS.

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7), as amended by this subtitle, is amended by adding at the end the following:

''(v) INFORMATION FROM SOURCES OTHER THAN THE ISSUER.—In producing a credit rating, a nationally recognized statistical rating organization shall consider information about an issuer that the nationally recognized statistical rating organization has, or receives from a source other than the issuer or the underwriter, that the nationally recognized statistical rating organization finds credible and potentially significant to a rating decision.''.

SA 3868. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1034, strike line 22 and all that follows through page 1035, line 9, and insert the following:

SEC. 936. QUALIFICATION STANDARDS FOR CREDIT RATING ANALYSTS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules that are reasonably designed to ensure that any person employed by a nationally recognized statistical rating organization to perform credit ratings—

(1) meets standards of training, experience, best practices, and competence necessary to produce accurate ratings for the categories of issuers whose securities the person rates;

(2) is tested for knowledge of the credit rating process; and

(3) is required to participate in annual continuing education seminars to maintain the standards described in paragraph (1).

SA 3869. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3787 submitted by Mr. BROWN of Ohio (for himself and Mr. KAUFMAN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 3 of the amendment, strike lines 11 through 13 and insert the following:

(2) FINANCIAL COMPANY.—The term ''financial company'' means—

(A) any nonbank financial company supervised by the Board;

(B) the Federal National Mortgage Association; and

(C) the Federal Home Loan Mortgage Corporation.

SA 3870. Mr. KERRY (for himself, Mr. BROWN of Massachusetts, and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, strike line 14 and all that follows through page 371, line 19, and insert the following:

Subtitle D—Federal Thrift Charter

SEC. 341. FEDERAL SAVINGS ASSOCIATIONS.

Section 5(a) of the Home Owners' Loan Act (12 U.S.C. 1464(a)) is amended to read as follows:

''(a) IN GENERAL.—In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Comptroller of the Currency is authorized, under such regulations as the Comptroller of the Currency may prescribe, to provide for the chartering, examination, operation, and regulation of associations to be known as 'Federal savings associations' (including Federal savings banks), giving primary consideration to the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.''.

SA 3871. Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, between lines 6 and 7, insert the following:

(3) INVESTMENT COMPANIES AND ADVISERS.—In the event that an investment company required to be registered under the Investment Company Act of 1940, or the registered investment adviser to such a company, is subject to supervision by the Board of Governors, the Council shall, in consultation with the Commission and in lieu of the prudential standards outlined in subsections (b) through (f), recommend to the Board of Governors such alternative enhanced regulatory requirements as are necessary to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress of the investment company or investment adviser. Such alternative requirements shall not include capital requirements.

On page 91, between lines 23 and 24, insert the following:

(3) INVESTMENT COMPANIES AND ADVISERS.—In the case of an investment company required to be registered under the Investment Company Act of 1940, or the registered investment adviser to such a company, that is supervised by the Board of Governors, the Board of Governors shall meet its obligations under this section by adopting the alternative enhanced regulatory requirements recommended by the Council under section 115.

SA 3872. Mr. BROWN of Massachusetts (for himself, Mr. KERRY, and Mr. GREGG) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 485, line 25, strike ''and'' and all that follows through ''the term'' on page 486, line 1 and insert the following:

''(3) the term 'insured depository institution' does not include an insured depository institution—

''(A) the activities of which are limited to providing trust or fiduciary services; and

''(B) that does not—

''(i) accept insured deposits from persons other than affiliates;

''(ii) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act (12 U.S.C. 461(b)(7)); or

''(iii) does not make commercial or consumer loans; and

''(4) the term''.

SA 3873. Mr. DEMINT (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, insert the following:

SEC. ____. POINT OF ORDER ON LEGISLATION THAT PROVIDES THE GOVERNMENT WITH NEW POWERS TO GIVE TAXPAYER-FUNDED BAILOUTS OR ANY OTHER PREFERENTIAL TREATMENT TO ANY PUBLIC OR PRIVATE INSTITUTION IN FINANCIAL DISTRESS.

(a) IN GENERAL.—In the Senate, it shall not be in order to consider any bill, joint resolution, amendment, motion, or conference report that provides the Government with new powers to give taxpayer-funded bailouts or any other preferential treatment to any public or private institution in financial distress.

(b) SUSPENSION OF POINT OF ORDER.—A point of order raised under subsection (a) shall be suspended in the Senate upon certification by the Congressional Budget Office that such bill, joint resolution, amendment, motion or conference report does not provide the Government with new powers to give taxpayer-funded bailouts or any other preferential treatment to any public or private institution in financial distress.

(c) WAIVER AND APPEAL.—

(1) WAIVER.—This section may be waived or suspended only by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 3874. Mr. PRYOR (for himself, Mr. BAUCUS, Mr. TESTER, Mrs. SHAHEEN, Mr. JOHNSON, Mr. BENNET, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 304, strike line 3 and all that follows though page 313, line 21, and insert the following:

(c) CERTAIN FUNCTIONS OF THE BOARD OF GOVERNORS.—

(1) COMPTROLLER OF THE CURRENCY.—Except as provided in paragraph (3), there are transferred to the Office of the Comptroller of the Currency all functions of the Board of Governors (including any Federal reserve bank) relating to the supervision of—

(A) any bank holding company (other than a foreign bank)—

(i) having less than $50,000,000,000 in total consolidated assets; and

(ii) having—

(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions—

(aa) exceed the total consolidated assets of all subsidiary State depository institutions that are State member banks; and

(bb) exceed the total consolidated assets of all subsidiary State depository institutions that are State nonmember insured banks and State savings associations; and

(B) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (A).

(2) CORPORATION.—Except as provided in paragraph (3), there are transferred to the Corporation all functions of the Board of Governors (including any Federal reserve bank) relating to the supervision of—

(A) any bank holding company (other than a foreign bank)—

(i) having less than $50,000,000,000 in total consolidated assets; and

(ii) having—

(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State nonmember insured banks or State savings associations; or

(II) a subsidiary that is a State nonmember insured bank or a State savings association and a subsidiary that is not a State nonmember insured bank or State savings association, if the total consolidated assets of all such subsidiaries that are State nonmember insured banks or State savings associations—

(aa) exceeds the total consolidated assets of all subsidiaries that are Federal depository institutions; and

(bb) exceeds the total consolidated assets of all subsidiaries that are State member banks; and

(B) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (A).

(3) RULEMAKING AUTHORITY.—No rulemaking authority of the Board of Governors is transferred to the Office of the Comptroller of the Currency or the Corporation under this subsection.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to transfer to the Office of the Comptroller of the Currency or the Corporation any functions of the Board of Governors (including any Federal reserve bank) relating to the supervision of—

(A) any State member bank;

(B) any bank holding company (other than a foreign bank)—

(i) having less than $50,000,000,000 in total consolidated assets; and

(ii) having—

(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State member banks; or

(II) a subsidiary that is a State member bank and a subsidiary that is not a State member bank, if the total consolidated assets of all subsidiaries that are State member banks—

(aa) exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

(bb) exceed the total consolidated assets of all subsidiaries that are State nonmember insured banks and State savings associations; or

(C) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (B).

(d) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended by striking paragraphs (1) through (4) and inserting the following:

''(1) the Office of the Comptroller of the Currency, in the case of—

''(A) any national banking association;

''(B) any Federal branch or agency of a foreign bank;

''(C) any bank holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions—

''(aa) exceed the total consolidated assets of all subsidiary State depository institutions that are State member banks; and

''(bb) exceed the total consolidated assets of all subsidiary State depository institutions that are State nonmember insured banks and State savings associations;

''(D) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (C);

''(E) any Federal savings association;

''(F) any savings and loan holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions exceed the total consolidated assets of all such subsidiaries that are State depository institutions; and

''(G) any subsidiary (other than a depository institution) of a savings and loan holding company that is described in subparagraph (F);

''(2) the Federal Deposit Insurance Corporation, in the case of—

''(A) any State nonmember insured bank;

''(B) any foreign bank having an insured branch;

''(C) any State savings association;

''(D) any bank holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State nonmember insured banks or State savings associations; or

''(II) a subsidiary that is a State nonmember insured bank or a State savings association and a subsidiary that is not a State nonmember insured bank or State savings association, if the total consolidated assets of all subsidiaries that are State nonmember insured banks or State savings associations—

''(aa) exceeds the total consolidated assets of all subsidiaries that are Federal depository institutions; and

''(bb) exceeds the total consolidated assets of all subsidiaries that are State member banks;

''(E) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (D);

''(F) any savings and loan holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are State depository institutions exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

''(G) any subsidiary (other than a depository institution) of a savings and loan holding company that is described in subparagraph (F);

''(3) the Board of Governors of the Federal Reserve System, in the case of—

''(A) any State member bank;

''(B) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978;

''(C) any foreign bank which does not operate an insured branch;

''(D) any agency or commercial lending company other than a Federal agency;

''(E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act of 1966;

''(F) any bank holding company having total consolidated assets of $50,000,000,000 or more, any bank holding company that is a foreign bank, and any subsidiary (other than a depository institution) of such a bank holding company;

''(G) any savings and loan holding company having total consolidated assets of $50,000,000,000 or more, any savings and loan holding company that is a foreign bank, and any subsidiary (other than a depository institution) of such a savings and loan holding company;

''(H) any bank holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State member banks; or

''(II) a subsidiary that is a State member bank and a subsidiary that is not a State member bank, if the total consolidated assets of all subsidiaries that are State member banks—

''(aa) exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

''(bb) exceed the total consolidated assets of all subsidiaries that are State nonmember insured banks and State savings associations; and

''(I) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (H).''.

(2) CERTAIN REFERENCES IN THE BANK HOLDING COMPANY ACT OF 1956.—

(A) COMPTROLLER OF THE CURRENCY.—On or after the transfer date, in the case of a bank holding company described in section 3(q)(1)(C) of the Federal Deposit Insurance Act, as amended by this Act, any reference in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) to the Board of Governors shall be deemed to be a reference to the Office of the Comptroller of the Currency.

(B) CORPORATION.—On or after the transfer date, in the case of a bank holding company described in section 3(q)(2)(D) of the Federal Deposit Insurance Act, as amended by this Act, any reference in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) to the Board of Governors shall be deemed to be a reference to the Corporation.

(C) RULE OF CONSTRUCTION.—Notwithstanding subparagraph (A) or (B), the Board of Governors shall retain all rulemaking authority under the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.).

(3) CONSULTATION IN HOLDING COMPANY RULEMAKING.—

(A) BANK HOLDING COMPANIES.—Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following:

''(h) CONSULTATION IN RULEMAKING.—Before proposing or adopting regulations under this Act that apply to bank holding companies having less than $50,000,000,000 in total consolidated assets, the Board of Governors shall consult with the Comptroller of the Currency and the Federal Deposit Insurance Corporation as to the terms of such regulations.''.

SA 3875. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3775 submitted by Mr. WYDEN (for himself and Mr. GRASSLEY) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

SEC. _____. STOP SECRET SPENDING ACT.

(a) SHORT TITLE.—This section may be cited as the ''Stop Secret Spending Act''.

(b) NOTICE REQUIREMENT.—Legislation that has been subject to a hotline notification may not pass by unanimous consent unless—

(1) the hotline notification has been posted on the public website of the Senate for at least 3 calendar days as provided in subsection (c); and

(2) signed statements from every Member of the Senate attesting that they have read the legislation (except for a sense of the Senate measure) and understand its impact including the cost have been submitted to and printed in the Congressional Record using the following format: ''I, Senator ________, have read [bill number] and understand its impact, including the cost, and support its passage.''.

(c) POSTING ON SENATE WEBPAGE.—At the same time as a hotline notification occurs with respect to any legislation, the Majority Leader shall post in a prominent place on the public webpage of the Senate a notice that the legislation has been hotlined and the legislation's number, title, link to full text, and sponsor and the estimated cost to implement and the number of new programs created by the legislation.

(d) LEGISLATIVE CALENDAR.—

(1) IN GENERAL.—The Secretary of the Senate shall establish for both the Senate Calendar of Business and the Senate Executive Calendar a separate section entitled ''Notice of Intent To Pass by Unanimous Consent''.

(2) CONTENT.—The section required by paragraph (1) shall—

(A) include any legislation posted as required by subsection (c) and the date the hotline notification occurred; and

(B) be updated as appropriate.

(3) REMOVAL.—Items included on the calendar under this subsection shall be removed from the calendar once passed by the Senate.

(e) EXCEPTIONS.—This section shall not apply—

(1) if a quorum of the Senate is present at the time the unanimous consent is propounded to pass the bill;

(2) to any legislation relating to an imminent or ongoing emergency, as jointly agreed to by the Majority and Minority Leaders; and

(3) to nominations.

(f) SUSPENSION.—The Presiding Officer shall not entertain any request to suspend this section by unanimous consent.

(g) HOTLINE NOTIFICATION DEFINED.—In this section, the term ''hotline notification'' means when the Majority Leader in consultation with the Minority Leader, provides notice of intent to pass legislation by unanimous consent by contacting each Senate office with a message on a special alert line (commonly referred to as the hotline) that provides information on what bill or bills the Majority Leader is seeking to pass through unanimous consent.

SA 3876. Mr. MENENDEZ (for himself and Mr. BURRIS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, line 2, strike ''bank.'' and insert the following: ''bank.

SEC. 343. WOMEN AND MINORITY ADVANCEMENT.

(a) DEFINITIONS.—In this section—

(1) the term ''covered person'' means a person that—

(A) has more than 50 employees; and

(B) makes a proposal to a financial agency for a contract that has a value of more than $50,000;

(2) the term ''Director'' means a Director of Minority and Women Advancement appointed under subsection (c);

(3) the term ''diversity'' includes racial, gender, and ethnic diversity;

(4) the term ''financial agency'' means—

(A) the Department of the Treasury;

(B) the Corporation;

(C) the Federal Housing Finance Agency;

(D) each of the Federal reserve banks;

(E) the Board of Governors;

(F) the National Credit Union Administration;

(G) the Commission;

(H) the Office of the Comptroller of the Currency;

(I) the Council;

(J) the Bureau; and

(K) the Office of National Insurance established under title V;

(5) the term ''financial agency administrator'' means the head of a financial agency;

(6) the term ''minority'' has the same meaning as in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note);

(7) the terms ''minority-owned business'' and ''women-owned business''—

(A) have the same meanings as in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)); and

(B) include financial institutions, investment banking firms, mortgage banking firms, asset management firms, brokers, dealers, financial services firms, underwriters, accountants, investment consultants, and providers of legal services; and

(8) the term ''Office'' means an Office of Minority and Women Advancement established under subsection (b).

(b) OFFICE OF MINORITY AND WOMEN ADVANCEMENT.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, each financial agency shall establish an Office of Minority and Women Advancement that shall—

(A) be responsible for all matters of the financial agency relating to diversity in management, employment, and business activities, including contracting and the coordination of technical assistance, in accordance with such standards and requirements as the Director of the Office shall establish; and

(B) advise the financial agency administrator of the impact of policies and regulations of the financial agency on minority-owned businesses, women-owned businesses, and diversity at such businesses.

(2) TRANSFER OF RESPONSIBILITIES.—Each financial agency that, before the date of enactment of this Act, assigned the responsibilities described in paragraph (1) (or comparable responsibilities) to another office of the financial agency shall ensure that such responsibilities are transferred to the Office.

(c) DIRECTOR.—

(1) IN GENERAL.—The head of the Office of a financial agency shall be the Director of Minority and Women Advancement, who shall be appointed by the financial agency administrator of the financial agency.

(2) REPORTING; TITLE.—Each Director shall report directly to the financial agency administrator and hold a title within the financial agency of the Director that is comparable to the title of other senior-level staff members of the financial agency who act in a managerial capacity and report directly to the financial agency administrator.

(3) DUTIES.—Each Director shall—

(A) ensure equal employment opportunity and encourage the racial, ethnic, and gender diversity of the workforce and senior management of the subject financial agency;

(B) work to increase—

(i) the participation rates of minority-owned businesses and women-owned businesses in the programs and contracts of the subject financial agency; and

(ii) the percentage of the amounts expended by the subject financial agency that is expended with minority-owned businesses and women-owned businesses; and

(C) provide guidance to the financial agency administrator to ensure that the policies and regulations of the financial agency strengthen minority-owned businesses and women-owned businesses.

(d) ADVANCEMENT IN ALL LEVELS OF BUSINESS ACTIVITIES.—Each Director shall develop and implement standards and procedures to ensure, to the maximum extent possible, the advancement of minorities and women, and the use of minority-owned businesses and women-owned businesses, in all activities of the financial agency at every level, including in procurement, insurance, and all types of contracting (including, as applicable, contracting for the issuance or guarantee of debt, equity, or security, the sale of assets, the management of assets, the making of equity investments, and the implementation of programs to promote economic recovery).

(e) CONTRACTS.—

(1) IN GENERAL.—Any process established by a financial agency for the review and evaluation of a contract proposal or the employment of a service provider shall give

consideration to the diversity of the covered person.

(2) WRITTEN ASSURANCE.—Each covered person shall include in the contract of the covered person with a financial agency a written assurance, in a form and manner that the Director of the financial agency shall prescribe, that the covered person will ensure, to the maximum extent possible, the advancement of minorities and women—

(A) in the workforce of the covered person; and

(B) as applicable, by any subcontractor of the covered person.

(3) REFERRAL SYSTEM.—Each Director shall establish a referral process by which the Director may refer a Federal contractor or subcontractor to the Office of Federal Contract Compliance Programs of the Department of Labor for further investigation, and appropriate enforcement, under Executive Order 11246 (42 U.S.C. 2000e note; relating to nondiscrimination in employment by Government contractors and subcontractors), or any successor thereto.

(4) APPLICABILITY.—This subsection shall apply to all contracts of a financial agency for services of any kind, including the services of investment banking, asset management entities, broker-dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services. Nothing in this subsection may be construed to affect the responsibilities or authority of the Office of Federal Contract Compliance Programs of the Department of Labor or the responsibilities of Federal contractors under Executive Order 11246 (42 U.S.C. 2000e note; relating to nondiscrimination in employment by Government contractors and subcontractors), or any successor thereto.

(f) REPORTS.—Not later than 90 days before the end of each fiscal year, the Director of each financial agency shall submit to Congress a report that contains detailed information describing the actions taken by the Director and the financial agency under this section, including—

(1) a statement—

(A) of the total amount paid by the financial agency to covered persons during—

(i) the period beginning on the date of the most recent report submitted by the financial agency under this subsection; or

(ii) in the case of the first report submitted under this subsection, the first fiscal year following the date of enactment of this Act; and

(B) that analyzes the amount described in subparagraph (A) by the type of population involved, as determined by the Director;

(2) the percentage of the amount described in paragraph (1) that was paid to minority-owned businesses and women-owned businesses, analyzed by the type of population involved, as determined by the Director;

(3) the successes achieved and challenges faced by the financial agency in operating outreach programs for minorities and women;

(4) any challenges that the financial agency may face in hiring and retaining qualified minority and women employees and contracting with qualified minority-owned businesses and women-owned businesses;

(5) the efforts that the financial agency has made to ensure that the financial agency recruits diverse talent; and

(6) any other information, findings, conclusions, or recommendations for legislative or financial agency action, as the Director determines appropriate.

(g) DIVERSITY IN FINANCIAL AGENCY WORKFORCE.—Each financial agency shall take affirmative steps to seek diversity in the workforce of the financial agency at all levels of the financial agency, consistent with the demographic diversity of the United States, including—

(1) targeted recruiting at historically Black colleges and universities, Hispanic-serving institutions, women's colleges, and colleges that typically serve majority minority populations;

(2) sponsoring and recruiting at job fairs in urban communities;

(3) placing employment advertisements in newspapers and magazines oriented toward minorities and women;

(4) partnering with organizations that focus on developing opportunities for minorities and women, to place talented minorities and women in internships, summer employment, and full-time positions with the financial agency;

(5) where feasible, partnering with inner-city high schools, girls' high schools, and majority minority high schools, to establish or enhance financial literacy programs and provide mentoring;

(6) ensuring that women and minorities are included in the recruitment process, as staff or in the interview phase of the process; and

(7) using any other form of mass media communication that the Director determines is necessary.

(h) DIVERSITY REPORT CARDS.—

(1) REPORTING REQUIRED.—The Commission, in consultation with the Secretary of Labor and the Equal Employment Opportunity Commission, shall, by rule, require each issuer to disclose in the annual report of the issuer on Form 10–K under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), comparative percentage data, with separate categories for race, ethnicity, and gender, concerning—

(A) the 200 most highly compensated officers, executives, or employees of the issuer (excluding the members of the board of directors of the issuer);

(B) the total compensation of the 200 most highly compensated officers, executives, or employees of the issuer (excluding the members of the board of directors of the issuer);

(C) all employees of the issuer; and

(D) the total compensation of all employees of the issuer.

(2) TOTAL COMPENSATION.—For purposes of this subsection, total compensation shall be determined in accordance with section 229.402(c)(2)(x) of title 17, Code of Federal Regulations, as in effect on the day before the date of enactment of this Act.

SEC. 344. PRESERVING AND EXPANDING MINORITY DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 308(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note) is amended by striking ''Director of the Office of Thrift Supervision'' and inserting '', the Chairman of the Board of Governors of the Federal Reserve System,''

(b) REPORT.—Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note) is amended by adding at the end the following:

''(c) REPORTS.—The Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System shall each submit an annual report to Congress containing a description of actions taken to carry out this section.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 3(g) of the Home Owners' Loan Act (12 U.S.C. 1462a(g)) is amended—

(1) in paragraph (1), by striking ''; and'' and inserting a period;

(2) by striking ''include'' and all that follows through ''any changes'' and inserting ''include a description of any changes''; and

(3) by striking paragraph (2).

SA 3877. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, between lines 2 and 3, insert the following:

SEC. 343. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.

The Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by inserting after section 114 (12 U.S.C. 4713) the following:

''SEC. 114A. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.

''(a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) DIRECTOR.—The term 'Director' means the Director of the Community Development Financial Institutions Fund.

''(2) ELIGIBLE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term 'eligible community development financial institution' means a community development financial institution (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or been granted by a qualified issuer, a loan under the Program.

''(3) ELIGIBLE COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSE.—The term 'eligible community or economic development purpose'—

''(A) means any purpose described in section 108(b); and

''(B) includes the provision of community or economic development in low-income or underserved rural areas.

''(4) GUARANTEE.—The term 'guarantee' means a written agreement between the Secretary and a qualified issuer (or trustee), pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible community development financial institutions.

''(5) LOAN.—The term 'loan' means any credit instrument that is extended under the Program for any eligible community or economic development purpose.

''(6) MASTER SERVICER.—

''(A) IN GENERAL.—The term 'master servicer' means any entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

''(B) APPROVAL CRITERIA FOR MASTER SERVICERS.—The Secretary shall approve or deny any application to become a master servicer under the Program not later than 30 days after the date on which all required information is submitted to the Secretary, based on the capacity and experience of the applicant in—

''(i) loan administration, servicing, and loan monitoring;

''(ii) managing regional or national loan intake, processing, or servicing operational systems and infrastructure;

''(iii) managing regional or national originator communication systems and infrastructure;

''(iv) developing and implementing training and other risk management strategies on a regional or national basis; and

''(v) compliance monitoring, investor relations, and reporting.

''(7) PROGRAM.—The term 'Program' means the guarantee Program for bonds and notes issued for eligible community or economic development purposes established under this section.

''(8) PROGRAM ADMINISTRATOR.—The term 'Program administrator' means an entity designated by the issuer to perform administrative duties, as provided in subsection (f)(2).

''(9) QUALIFIED ISSUER.—

''(A) IN GENERAL.—The term 'qualified issuer' means a community development financial institution (or any entity, including a State or local government, designated to issue notes or bonds on behalf of such community development financial institution) that meets the qualification requirements of this paragraph.

''(B) APPROVAL CRITERIA FOR QUALIFIED ISSUERS.—

''(i) IN GENERAL.—The Secretary shall approve a qualified issuer for a guarantee under the Program in accordance with the requirements of this paragraph, and such additional requirements as the Secretary may establish, by regulation.

''(ii) TERMS AND QUALIFICATIONS.—A qualified issuer shall—

''(I) have appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes;

''(II) provide to the Secretary—

''(aa) an acceptable statement of the proposed sources and uses of the funds; and

''(bb) a capital distribution plan that meets the requirements of subsection (c)(1); and

''(III) certify to the Secretary that the bonds or notes to be guaranteed are to be used for eligible community or economic development purposes.

''(C) DEPARTMENT OPINION; TIMING.—

''(i) DEPARTMENT OPINION.—Not later than 30 days after the date of a request by a qualified issuer for approval of a guarantee under the Program, the General Counsel of the Fund shall provide to the Secretary an opinion regarding compliance by the issuer with the requirements of the Program under this section.

''(ii) TIMING.—The Secretary shall approve or deny a guarantee under this section after consideration of the opinion provided to the Secretary under clause (i), and in no case later than 45 days after receipt of all required information by the Secretary with respect to a request for such guarantee.

''(10) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

''(11) SERVICER.—The term 'servicer' means an entity designated by the issuer to perform various servicing duties, as provided in subsection (f)(3).

''(b) GUARANTEES AUTHORIZED.—The Secretary shall guarantee payments on bonds or notes issued by any qualified issuer if the proceeds of the bonds or notes are used in accordance with this section to make loans to eligible community development financial institutions—

''(1) for eligible community or economic development purposes; or

''(2) to refinance loans or notes issued for such purposes.

''(c) GENERAL PROGRAM REQUIREMENTS.—

''(1) IN GENERAL.—A capital distribution plan meets the requirements of this subsection, if not less than 90 percent of the principal amount of guaranteed bonds or notes (other than costs of issuance fees) are used to make loans for any eligible community or economic development purpose, measured annually, beginning at the end of the 1-year period beginning on the issuance date of such guaranteed bonds or notes.

''(2) RELENDING ACCOUNT.—Not more than 10 percent of the principal amount of guaranteed bonds or notes, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds, minus the risk-share pool amount under subsection (d), may be held in a relending account and may be made available for new eligible community or economic development purposes.

''(3) LIMITATIONS ON UNPAID PRINCIPAL BALANCES.—The proceeds of guaranteed bonds or notes under the Program may not be used to pay fees (other than costs of issuance fees), and shall be held in—

''(A) community or economic development loans;

''(B) a relending account, to the extent authorized under paragraph (2); or

''(C) a risk-share pool established under subsection (d).

''(4) REPAYMENT.—If a qualified issuer fails to meet the requirements of paragraph (1) by the end of the 90-day period beginning at the end of the annual measurement period, repayment shall be made on that portion of bonds or notes necessary to bring the bonds or notes that remain outstanding after such repayment into compliance with the 90 percent requirement of paragraph (1).

''(5) PROHIBITED USES.—The Secretary shall, by regulation—

''(A) prohibit, as appropriate, certain uses of amounts from the guarantee of a bond or note under the Program, including the use of such funds for political activities, lobbying, outreach, counseling services, or travel expenses; and

''(B) provide that the guarantee of a bond or note under the Program may not be used for salaries or other administrative costs of—

''(i) the qualified issuer; or

''(ii) any recipient of amounts from the guarantee of a bond or note.

''(d) RISK-SHARE POOL.—Each qualified issuer shall, during the term of a guarantee provided under the Program, establish a risk-share pool, capitalized by contributions from eligible community development financial institution participants an amount equal to not less than 3 percent of the guaranteed amount outstanding on the subject notes and bonds.

''(e) GUARANTEES.—

''(1) IN GENERAL.—A guarantee issued under the Program shall—

''(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

''(B) be fully assignable and transferable to the capital market, on terms and conditions that are consistent with comparable Government-guaranteed bonds, and satisfactory to the Secretary;

''(C) represent the full faith and credit of the United States; and

''(D) not exceed 30 years.

''(2) LIMITATIONS.—

''(A) ANNUAL NUMBER OF GUARANTEES.—The Secretary shall issue not more than 10 guarantees in any calendar year under the Program.

''(B) GUARANTEE AMOUNT.—The Secretary may not guarantee any amount under the Program equal to less than $100,000,000, but the total of all such guarantees in any fiscal year may not exceed $1,000,000,000.

''(f) SERVICING OF TRANSACTIONS.—

''(1) IN GENERAL.—To maximize efficiencies and minimize cost and interest rates, loans made under this section may be serviced by qualified Program administrators, bond servicers, and a master servicer.

''(2) DUTIES OF PROGRAM ADMINISTRATOR.—The duties of a Program administrator shall include—

''(A) approving and qualifying eligible community development financial institution applications for participation in the Program;

''(B) compliance monitoring;

''(C) bond packaging in connection with the Program; and

''(D) all other duties and related services that are customarily expected of a Program administrator.

''(3) DUTIES OF SERVICER.—The duties of a servicer shall include—

''(A) billing and collecting loan payments;

''(B) initiating collection activities on past-due loans;

''(C) transferring loan payments to the master servicing accounts;

''(D) loan administration and servicing;

''(E) systematic and timely reporting of loan performance through remittance and servicing reports;

''(F) proper measurement of annual outstanding loan requirements; and

''(G) all other duties and related services that are customarily expected of servicers.

''(4) DUTIES OF MASTER SERVICER.—The duties of a master servicer shall include—

''(A) tracking the movement of funds between the accounts of the master servicer and any other servicer;

''(B) ensuring orderly receipt of the monthly remittance and servicing reports of the servicer;

''(C) monitoring the collection comments and foreclosure actions;

''(D) aggregating the reporting and distribution of funds to trustees and investors;

''(E) removing and replacing a servicer, as necessary;

''(F) loan administration and servicing;

''(G) systematic and timely reporting of loan performance compiled from all bond servicers' reports;

''(H) proper distribution of funds to investors; and

''(I) all other duties and related services that are customarily expected of a master servicer.

''(g) FEES.—

''(1) IN GENERAL.—A qualified issuer that receives a guarantee issued under this section on a bond or note shall pay a fee to the Director, in an amount equal to 10 basis points of the amount of the unpaid principal of the bond or note guaranteed.

''(2) PAYMENT.—A qualified issuer shall pay the fee required under this subsection on an annual basis.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary, such sums as are necessary to carry out this section.

''(2) USE OF FEES.—To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Director may use the fees collected under subsection (g) for the cost of providing guarantees of bonds and notes under this section.

''(i) INVESTMENT IN GUARANTEED BONDS INELIGIBLE FOR COMMUNITY REINVESTMENT ACT PURPOSES.—Notwithstanding any other provision of law, any investment by a financial institution in bonds or notes guaranteed under the Program shall not be taken into account in assessing the record of such institution for purposes of the Community Reinvestment Act of 1977 (12 U.S.C. 2901).

''(j) ADMINISTRATION.—

''(1) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

''(2) IMPLEMENTATION.—Not later than 240 days after the date of enactment of this section, the Secretary shall implement this section.

''(k) TERMINATION.—This section is repealed, and the authority provided under this section shall terminate, on September 30, 2014.''.

SEC. 344. QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BONDS.

(a) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BONDS TREATED AS STATE AND LOCAL BONDS.—Section 150 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BONDS.—For purposes of this part and section 103—

''(1) IN GENERAL.—A qualified community development financial institution bond shall be treated as a bond of a political subdivision of a State.

''(2) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BOND.—The term 'qualified community development financial institution bond' means any bond—

''(A) issued by a qualified community development financial institution (or on behalf of such an institution by a State or local government),

''(B) designated as a qualified community development financial institution bond for purposes of this subsection, and

''(C) issued as part of an issue 95 percent or more of the net proceeds of which are to be used for an eligible community or economic development purpose (as defined in section 114A of the Community Development Banking and Financial Institutions Act).

''(3) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term 'qualified community development financial institution' means any organization—

''(A) which is described in section 501(c)(3) and exempt from tax under section 501(a), and

''(B) which is a qualified issuer as defined in section 114A of the Community Development Banking and Financial Institutions Act of 1994, or would be a qualified issuer but for its designation of a State or local government to issue bonds on its behalf.

''(4) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(A) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under paragraph (2)(B) by any issuer shall not exceed the limitation amount allocated to such issuer under subparagraph (C).

''(B) NATIONAL LIMITATION.—There is a national qualified community development financial institution bond limitation of $500,000,000.

''(C) ALLOCATION OF NATIONAL LIMITATION.—The national qualified community development financial institution bond limitation shall be allocated by the Secretary to qualified issuers receiving guarantees under section 114A of the Community Development Banking and Financial Institutions Act of 1994.

''(5) BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—Bonds which are part of an issue which meets the requirements of paragraph (2) shall not be treated as private activity bonds.''.

(b) NO FEDERAL GUARANTEE.—Subparagraph (A) of section 149(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''or'' at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting '', or''; and

(3) by adding at the end the following new clause:

''(v) any guarantee of a qualified community development financial institution bond provided by the Community Development Financial Institution Fund.''.

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

SA 3878. Mr. CASEY (for himself, Mr. BROWN of Ohio, and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail,'' to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1044, between lines 2 and 3, insert the following:

SEC. 9___. STUDY ON TRANSACTION FEE.

(a) IN GENERAL.—The Securities and Exchange Commission and the Commodity Futures Trading Commission, in coordination with the Department of the Treasury, shall conduct a study on the implementation of a transaction fee on all security-based transactions, including swap and security-based swap transactions (except those transactions that are primarily for the purpose of hedging or mitigating risk), stock, debt instruments, and any other security that the heads of the Federal agencies described in this subsection determine to be appropriate to be included in the study.

(b) PURPOSE.—The purpose of the study shall be to assess—

(1) past experiences with transaction fees, with an emphasis on fee avoidance or behavior modification, migration of capital, and impact on individual investors and small and medium-sized businesses;

(2) the advantages and disadvantages of the implementation of the transaction fee in the United States alone, as compared to the introduction of the fee on a global basis;

(3) the potential to generate sufficient revenue to reduce the deficit, fund job creation, and meet the humanitarian and global development obligations of the United States;

(4) how a transaction fee needs to be designed in order to mitigate any negative side effects that may result from the indirect assessment on the raising of capital;

(5) the impact, if any, a transaction fee would have on the practice of day trading;

(6) to what extent a financial transaction fee would contribute to the stabilization of the financial markets in terms of the effect of the fee on speculation and on transparency;

(7) whether a transaction fee would prevent a future financial crisis by targeting certain types of risky transactions (which transactions shall be determined by the agencies conducting the study);

(8) the different transaction fee options, with a particular focus on—

(A) the financial transactions tax and financial activities tax, as described in the report entitled ''International Monetary Fund Report: A Fair and Substantial Contribution by the Financial Sector''; and

(B) implementing the transaction fee on individuals earning more than $250,000 and corporations;

(9) whether the transaction fee would assist in building healthy capital, ensuring the ability of the banking system to finance real economy investments; and

(10) whether excessive risk-taking is or would be prevented through implementation of a transaction fee.

(c) PUBLIC PARTICIPATION.—The study described in subsection (a) shall be carried out in a manner to provide to the public an adequate period of time to provide comments on the implementation of a transaction fee.

(d) REPORT.—Not later than 90 days after the date of enactment of this Act, the Securities and Exchange Commission and the Commodity Futures Trading Commission, in coordination with the Department of the Treasury, shall submit to Congress a report that describes the results of the study.

SA 3879. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail,'' to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. ___. LEVERAGE AND RISK-BASED CAPITAL REQUIREMENTS.

(a) DEFINITIONS.—

(1) GENERALLY APPLICABLE LEVERAGE CAPITAL REQUIREMENTS.—The term ''generally applicable leverage capital requirements'' means—

(A) the minimum ratios of tier 1 capital to average total assets, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of that capital requirement, average total assets in the denominator of that capital requirement, and the required ratio of the numerator to the denominator.

(2) GENERALLY APPLICABLE RISK-BASED CAPITAL REQUIREMENTS.—The term ''generally applicable risk-based capital requirements'' means—

(A) the risk-based capital requirements as established by the appropriate Federal banking agencies to apply to insured depository institutions under the agency's Prompt Corrective Action regulations that implement section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of those capital requirements, the risk-weighted assets in the denominator of those capital requirements, and the required ratio of the numerator to the denominator.

(b) MINIMUM CAPITAL REQUIREMENTS.—

(1) MINIMUM LEVERAGE CAPITAL REQUIREMENTS.—The appropriate Federal banking agencies shall establish minimum leverage capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies identified under section 113. The minimum leverage capital requirements established under this paragraph shall not be less than the generally applicable leverage capital requirements, which shall serve as a floor for any

capital requirements the agency may require, nor quantitatively lower than the generally applicable leverage capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(2) MINIMUM RISK-BASED CAPITAL REQUIREMENTS.—The appropriate Federal banking agencies shall establish minimum risk-based capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies identified under section 113. The minimum risk-based capital requirements established under this paragraph shall not be less than the generally applicable risk-based capital requirements, which shall serve as a floor for any capital requirements the agency may require, nor quantitatively lower than the generally applicable risk-based capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(3) CAPITAL REQUIREMENTS TO ADDRESS ACTIVITIES THAT POSE RISKS TO THE FINANCIAL SYSTEM.—

(A) IN GENERAL.—Subject to the recommendations of the Council, in accordance with section 120, the Federal banking agencies shall develop capital requirements applicable to all institutions covered by this section that address the risks that the activities of such institutions pose, not only to the institution engaging in the activity, but to other public and private stakeholders in the event of adverse performance, disruption, or failure of the institution or the activity.

(B) CONTENT.—Such rules shall address, at a minimum, the risks arising from—

(i) significant volumes of activity in derivatives, securitized products purchased and sold, financial guarantees purchased and sold, securities borrowing and lending, and repurchase agreements and reverse repurchase agreements;

(ii) concentrations in assets for which the values presented in financial reports are based on models rather than historical cost or prices deriving from deep and liquid 2-way markets; and

(iii) concentrations in market share for any activity that would substantially disrupt financial markets if the institution is forced to unexpectedly cease the activity.

SA 3880. Mr. BYRD (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 919C. PENALTIES FOR FAILURE TO DISCLOSE HEALTH AND SAFETY LITIGATION, VIOLATIONS, AND IMPACT INFORMATION.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 21A the following new section:

''SEC. 21B. HEALTH AND SAFETY DISCLOSURE VIOLATIONS.

''(a) FINDINGS.—Congress finds the following:

''(1) This Act requires issuers of securities to disclose material facts regarding—

''(A) pending litigation;

''(B) unsafe or unhealthy conditions in a high-risk workplace that may reasonably be expected to cause the issuer to face costly wrongful death actions from the heirs of the deceased;

''(C) unsafe or unhealthy conditions in a high-risk workplace, or significant violations of law in such a workplace, that may reasonably be expected to cause reported financial information not to be necessarily indicative of future financial conditions or future operating results; and

''(D) events, trends, or uncertainties that may change the relationship between costs and revenues.

''(2) In numerous industries, including high-risk industries such as coal mining and oil exploration, health and safety conditions have long been incompletely and inconsistently disclosed, discussed, or analyzed by corporations.

''(3) Investors and the public have a right to know, and a reasonable expectation to remained informed, about significant safety and health conditions that could imperil the workforce of publicly-traded corporations, carrying odious consequences for workers, families, and communities, and that can lead to the abrogation of contracts, environmental or other tort liabilities, and tarnished corporate reputations.

''(b) PURPOSE.—The purpose of this section is to strengthen the maintenance of fair and honest markets by requiring disclosure of certain health and safety information and by authorizing elevated penalties for failures to disclose certain categories of information regarding health and safety conditions or violations, given that such failures have too often heretofore been unaddressed.

''(c) JUDICIAL ACTIONS AUTHORIZED.—

''(1) RELIEF AND PENALTIES.—Whenever it shall appear that any issuer has violated subsection (d), the Commission or any shareholder of the issuer may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose—

''(A) equitable relief for the complainant, to be provided by the issuer; and

''(B) a civil penalty to be paid by the senior executive officers or the members of the board of directors of the subject issuer—

''(i) who knew about such violation; or

''(ii) whose duties and decisions affected matters regarding production or safety and who therefore had reason to know about such violation, barring malfeasance by other directors, officers, employees, or agents of the subject issuer.

''(2) COSTS.—Whenever a court issues an order sustaining a shareholder's charges under paragraph (1), a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) that have been reasonably incurred by the shareholder for, or in connection with, the institution and prosecution of such proceedings, as determined by the court, shall be assessed against the issuer. These costs shall be assessed regardless of the amount or means of relief or penalties imposed on the issuer or its directors, officers, employees, or agents.

''(d) HEALTH AND SAFETY-RELATED DISCLOSURE.—

''(1) DUTY TO DISCLOSE.—At least annually, an issuer shall disclose to the Commission and the shareholders the information required under paragraph (2).

''(2) REQUIRED DISCLOSURES.—The disclosures required under this paragraph are the following:

''(A) Any pending litigation concerning a health or safety condition or violation under Federal or State law involving the issuer, other than ordinary, routine litigation that is incidental to the business of the issuer, as determined by the Commission in consultation with the Secretary of Labor.

''(B) Any significant health or safety condition, or significant health or safety violation, at any business unit of the issuer in which routine activities pose risk of loss of life.

''(C) Any significant health or safety condition, or significant health or safety violation, at any business unit of the issuer in which routine activities pose risk of accidents or fatalities, injuries, or illnesses, the occurrence of which could cause reported financial information not to be necessarily indicative of future financial conditions of the issuer, or which could cause a negative effect on operating results of the issuer or any subsidiaries thereof.

''(D) Any trend in health or safety conditions or violations under Federal law, at any business unit of the issuer, that may change the relationship between costs and revenues of the issuer or any subsidiaries thereof.

''(e) MEANS AND AMOUNT OF EQUITABLE RELIEF, DAMAGES, AND PENALTIES.—

''(1) MEANS AND AMOUNT OF EQUITABLE RELIEF AND DAMAGES.—The court shall determine the means of equitable relief for a violation of subsection (d), which may include the immediate disclosure of significant health or safety conditions or significant health or safety violations. If the court determines that a shareholder has sustained damages, the court may assess the damages against the issuer.

''(2) AMOUNT OF CIVIL PENALTY.—

''(A) JUDICIAL DETERMINATION.—The court shall determine the civil penalty for a violation of subsection (d) in light of the facts and circumstances.

''(B) AMOUNT OF PENALTY.—Unless determined otherwise in accordance with subparagraph (A), the civil penalty for a violation of subsection (d) shall be equal to not less than 3 times the amount that may be imposed under other State or Federal law in connection with the underlying safety or health conditions or violations that are required to be disclosed under this title.

''(3) PRIVATE ACTIONS.—If a person other than the United States prevails on a claim alleging a violation of subsection (d), the person shall be entitled to recover 3 times the amount of damages sustained by the person, as determined by the court, in light of the facts and circumstances.

''(f) PROCEDURES FOR COLLECTION.—

''(1) PAYMENT OF PENALTY TO TREASURY.—A civil penalty imposed under this section shall be payable into the Treasury of the United States.

''(2) COLLECTION OF PENALTIES.—If a person upon whom a civil penalty under this section is imposed fails to pay such penalty within the time prescribed in the order of the court, the Commission may refer the matter to the Attorney General of the United States, who shall recover such penalty by action in the appropriate United States district court.

''(3) REMEDY NOT EXCLUSIVE.—An action authorized by this section may be brought in addition to any other actions that the Commission, the Attorney General, or any shareholder is entitled to bring.

''(4) JURISDICTION AND VENUE.—For purposes of section 27, an action under this section shall be an action to enforce a liability or a duty created by this title.

''(g) DEFINITIONS.—

''(1) IN GENERAL.—The Commission, in consultation with the Secretary of Labor, shall issue rules to define the terms used in this section for which the Commission determines a definition to be necessary.

''(2) DEFINITIONS.—In this section:

''(A) PENDING LITIGATION.—The term 'pending litigation' includes a civil action or administrative proceeding for a penalty for violating a Federal or State health and safety law that—

''(i) is being contested before an administrative law judge under the Occupational Safety and Health Review Commission or the Federal Mine Safety and Health Review Commission; or

''(ii) is being otherwise contested or appealed under a State review board or other body.

''(B) SIGNIFICANT HEALTH OR SAFETY CONDITION.—The term 'significant health or safety condition' means a condition that a certified worker or manager could identify as reasonably likely to be cited, were the condition to be observed by a Federal inspector, as—

''(i) a significant and substantial health or safety violation under the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.);

''(ii) a serious or repeated violation under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); or

''(iii) another health- or safety-related violation carrying a high degree of gravity under Federal law.

''(C) SIGNIFICANT HEALTH OR SAFETY VIOLATION.—The term 'significant health or safety violation' means—

''(i) a significant and substantial health or safety violation under the Federal Mine Safety and Health Act of 1977;

''(ii) a serious or repeated violation under the Occupational Safety and Health Act of 1970; or

''(iii) another health- or safety-related violation carrying a high degree of gravity under State or Federal law.''.

SA 3881. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1062, after line 25, insert the following:

(e) OFFICE OF SERVICE MEMBER AFFAIRS.—

(1) ESTABLISHMENT.—The Director shall establish within the Bureau the Office of Service Member Affairs.

(2) FUNCTIONS.—The Office of Service Member Affairs shall have such powers and duties as the Director may delegate to that Office, with respect to the drafting and enforcement of any special consumer financial protection rules that apply to members of the Armed Forces.

(3) ADMINISTRATION OF OFFICE.—There is established the position of Assistant Director of the Bureau for Service Member Affairs, who—

(A) shall be appointed by the Director; and

(B) shall carry out such duties as the Director may delegate to such Assistant Director.

(4) DEFINITION.—As used in this subsection, the term ''member of the Armed Forces'' means any member of the United States Armed Forces and any member of the National Guard or Reserves.

SA 3882. Mr. CORKER (for himself, Mr. GREGG, Mr. SHELBY, Mrs. HUTCHISON, Mr. LEMIEUX, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1045, strike line 12 and all that follows through ''**SEC. 942.**'' on page 1052, line 3, and insert the following:

(b) STUDY ON RISK RETENTION.—

(1) STUDY.—

(A) IN GENERAL.—The Board of Governors, in coordination and consultation with the Comptroller of the Currency, the Corporation, the Federal Housing Finance Agency, and the Commission, shall conduct a study of the asset-backed securitization process.

(B) ISSUES TO BE STUDIED.—In conducting the study under subparagraph (A), the Board of Governors shall evaluate—

(i) the separate and combined impact of—

(I) requiring loan originators or securitizers to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; including—

(aa) whether existing risk retention requirements such as contractual representations and warranties, and statutory and regulatory underwriting and consumer protection requirements are sufficient to ensure the long-term accountability of originators for loans they originate; and

(bb) methodologies for establishing additional statutory credit risk retention requirements;

(II) the Financial Accounting Statements 166 and 167 issued by the Financial Accounting Standards Board, as well as any other statements issued before or after the date of enactment of this section the Federal banking agencies determine to be relevant;

(ii) the impact of the factors described under subsection (i) of this section on—

(I) different classes of assets, such as residential mortgages, commercial mortgages, commercial loans, auto loans, and other classes of assets;

(II) loan originators;

(III) securitizers;

(IV) access of consumers and businesses to credit on reasonable terms.

(2) REPORT.—Not later than 18 months after the date of enactment of this section, the Board of Governors shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include statutory and regulatory recommendations for eliminating any negative impacts on the continued viability of the asset-backed securitization markets and on the availability of credit for new lending identified by the study conducted under paragraph (1).

SEC. 942. RESIDENTIAL MORTGAGE UNDERWRITING STANDARDS.

(a) STANDARDS ESTABLISHED.—Notwithstanding any other provision of this Act or any other provision of Federal, State, or local law, the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, shall jointly establish specific minimum standards for mortgage underwriting, including—

(1) a requirement that the mortgagee verify and document the income and assets relied upon to qualify the mortgagor on the residential mortgage, including the previous employment and credit history of the mortgagor;

(2) a down payment requirement that—

(A) is equal to not less than 5 percent of the purchase price of the property securing the residential mortgage; and

(B) in the case of a first lien residential mortgage loan with an initial loan to value ratio that is more than 80 percent and not more than 95 percent, includes a requirement for credit enhancements, as defined by the Federal banking agencies, until the loan to value ratio of the residential mortgage loan amortizes to a value that is less than 80 percent of the purchase price;

(3) a method for determining the ability of the mortgagor to repay the residential mortgage that is based on factors including—

(A) all terms of the residential mortgage, including principal payments that fully amortize the balance of the residential mortgage over the term of the residential mortgage; and

(B) the debt to income ratio of the mortgagor; and

(4) any other specific standards the Federal banking agencies jointly determine are appropriate to ensure prudent underwriting of residential mortgages.

(b) UPDATES TO STANDARDS.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development—

(1) shall review the standards established under this section not less frequently than every 5 years; and

(2) based on the review under paragraph (1), may revise the standards established under this section, as the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, determine to be necessary.

(c) COMPLIANCE.—It shall be a violation of Federal law—

(1) for any mortgage loan originator to fail to comply with the minimum standards for mortgage underwriting established under subsection (a) in originating a residential mortgage loan;

(2) for any company to maintain an extension of credit on a revolving basis to any person to fund a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan funded by such credit was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a); or

(3) for any company to purchase, fund by assignment, or guarantee a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a).

(d) IMPLEMENTATION.—

(1) REGULATIONS REQUIRED.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency, shall issue regulations to implement subsections (a) and (c), which shall take effect not later than 270 days after the date of enactment of this Act.

(2) REPORT REQUIRED.—If the Federal banking agencies have not issued final regulations under subsections (a) and (c) before the date that is 270 days after the date of enactment of this Act, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) explains why final regulations have not been issued under subsections (a) and (c); and

(B) provides a timeline for the issuance of final regulations under subsections (a) and (c).

(e) ENFORCEMENT.—Compliance with the rules issued under this section shall be enforced by—

(1) the primary financial regulatory agency of an entity, with respect to an entity subject to the jurisdiction of a primary financial regulatory agency, in accordance with the statutes governing the jurisdiction of the primary financial regulatory agency over the entity and as if the action of the primary financial regulatory agency were taken under such statutes; and

(2) the Bureau, with respect to a company that is not subject to the jurisdiction of a primary financial regulatory agency.

(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed to permit the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to make or guarantee a residential mortgage loan that does not meet the minimum underwriting standards established under this section.

(g) DEFINITIONS.—In this section, the following definitions shall apply:

(1) COMPANY.—The term ''company''—

(A) has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)); and

(B) includes a sole proprietorship.

(2) MORTGAGE LOAN ORIGINATOR.—The term ''mortgage loan originator'' means any company that takes residential mortgage loan applications and offers or negotiates terms of residential mortgage loans.

(3) RESIDENTIAL MORTGAGE LOAN.—The term ''residential mortgage loan''—

(A) means any extension of credit primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent security interest in a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and

(B) does not include a mortgage loan for which mortgage insurance is provided by the Department of Veterans Affairs.

(4) EXTENSION OF CREDIT; DWELLING.—The terms ''extension of credit'' and ''dwelling'' shall have the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

SEC. 943.

SA 3883. Ms. SNOW (for herself and Mr. PRYOR), submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. SMALL BUSINESS FAIRNESS AND REGULATORY TRANSPARENCY.

(a) PANEL REQUIREMENT.—Section 609(d) of title 5, United States Code, is amended by striking ''means the'' and all that follows and inserting the following: ''means—

''(1) the Environmental Protection Agency;

''(2) the Consumer Financial Protection Bureau of the Federal Reserve System; and

''(3) the Occupational Safety and Health Administration of the Department of Labor.''.

(b) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended by adding at the end the following:

''(d)(1) For a covered agency, as defined in section 609(d)(2), each initial regulatory flexibility analysis shall include a description of—

''(A) any projected increase in the cost of credit for small entities;

''(B) any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any increase in the cost of credit for small entities; and

''(C) advice and recommendations of representatives of small entities relating to issues described in subparagraphs (A) and (B) and subsection (b).

''(2) A covered agency, as defined in section 609(d)(2), shall, for purposes of complying with paragraph (1)(C)—

''(A) identify representatives of small entities in consultation with the Chief Counsel for Advocacy of the Small Business Administration; and

''(B) collect advice and recommendations from the representatives identified under subparagraph (A) relating to issues described in subparagraphs (A) and (B) of paragraph (1) and subsection (b).''.

(c) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604(a) of title 5, United States Code, is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) for a covered agency, as defined in section 609(d)(2), a description of the steps the agency has taken to minimize any additional cost of credit for small entities.''.

SA 3884. Ms. CANTWELL (for herself, Mr. MCCAIN, Mr. KAUFMAN, Mr. HARKIN, Mr. FEINGOLD, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, add the following:

SEC. 171. LIMITATIONS ON BANK AFFILIATIONS.

(a) LIMITATION ON AFFILIATION.—The Banking Act of 1933 (12 U.S.C. 221a et seq.) is amended by inserting before section 21 the following:

''SEC. 20. Beginning 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010, no member bank may be affiliated, in any manner described in section 2(b), with any corporation, association, business trust, or other similar organization that is engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation stocks, bonds, debenture, notes, or other securities, except that nothing in this section shall apply to any such organization which shall have been placed in formal liquidation and which shall transact no business, except such as may be incidental to the liquidation of its affairs.''.

(b) LIMITATION ON COMPENSATION.—The Banking Act of 1933 (12 U.S.C. 221 et seq.) is amended by inserting after section 31 the following:

''SEC. 32. Beginning 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010, no officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual, primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities, shall serve simultaneously as an officer, director, or employee of any member bank, except in limited classes of cases in which the Board of Governors of the Federal Reserve System may allow such service by general regulations when, in the judgment of the Board of Governors, it would not unduly influence the investment policies of such member bank or the advice given to customers by the member bank regarding investments.''.

(c) PROHIBITING DEPOSITORY INSTITUTIONS FROM ENGAGING IN INSURANCE-RELATED ACTIVITIES.—

(1) IN GENERAL.—Beginning 1 year after the date of enactment of this Act, and notwithstanding any other provision of law, in no case may a depository institution engage in the business of insurance or any insurance-related activity.

(2) DEFINITION.—As used in this section, the term ''business of insurance'' means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.

SA 3885. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, strike lines 11 through 13 and insert the following:

(b) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

SEC. 333. STUDY ON THE IMPACT OF EXCLUDING CORE DEPOSITS FROM TREATMENT AS BROKERED DEPOSITS.

(a) STUDY.—The Board of Governors shall conduct a study to evaluate—

(1) the treatment of core deposits as brokered deposits for the purpose of calculating the insurance premiums of banks;

(2) the potential impact on the Deposit Insurance Fund of ceasing to treat core deposits as brokered deposits;

(3) an assessment of the merits and drawbacks of the treatment of core deposits as brokered deposits, with respect to the economy and banking sector of the United States;

(4) the potential stimulative effect on local economies of excluding core deposits from treatment as brokered deposits; and

(5) the competitive parity between large institutions and community banks that

could result from excluding core deposits from treatment as brokered deposits.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Board of Governors shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study under subsection (a) that includes legislative recommendations, if any, to address competitive imbalances as a result of the treatment of core deposits as brokered deposits.

SA 3886. Mr. ROCKEFELLER (for himself and Mr. BYRD) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 919C. REPORTING REQUIREMENTS REGARDING COAL OR OTHER MINE SAFETY.

(a) REPORTING MINE SAFETY INFORMATION.—Each issuer that is required to file reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o) and that is an operator, or that has a subsidiary that is an operator, of a coal or other mine shall include, in each periodic report filed with the Commission under the securities laws on or after the date of enactment of this Act, the following information for the time period covered by such report:

(1) For each coal or other mine of which the issuer or a subsidiary of the issuer is an operator—

(A) the total number of violations of mandatory health or safety standards that could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard under section 104 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 814) for which the operator received a citation from the Mine Safety and Health Administration;

(B) the total number of orders issued under section 104(b) of such Act (30 U.S.C. 814(b));

(C) the total number of citations and orders for unwarrantable failure of the mine operator to comply with mandatory health or safety standards under section 104(d) of such Act (30 U.S.C. 814(d));

(D) the total number of flagrant violations under section 110(b) of such Act (30 U.S.C. 820(b));

(E) the total number of imminent danger orders issued under section 107(a) of such Act (30 U.S.C. 817(a)); and

(F) the total dollar value of proposed assessments from the Mine Safety and Health Administration under such Act (30 U.S.C. 801 et seq.).

(2) A list of such coal or other mines that receive written notice from the Mine Safety and Health Administration of—

(A) a pattern of violations of mandatory health or safety standards that are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards under section 104(e) of such Act (30 U.S.C. 814(e)); or

(B) the potential to have such a pattern.

(3) Any pending legal action before the Federal Mine Safety and Health Review Commission involving such coal or other mine.

(b) REPORTING SHUTDOWNS AND PATTERNS OF VIOLATIONS.—Beginning on and after the date of enactment of this Act, each issuer that is an operator, or that has a subsidiary that is an operator, of a coal or other mine shall file a current report on Form 8–K (or any successor form), as required by the Commission, disclosing the following regarding each coal or other mine of which the issuer or subsidiary is an operator:

(1) The receipt of an imminent danger order issued under section 107(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 817(a)).

(2) The receipt of written notice from the Mine Safety and Health Administration that the coal or other mine has—

(A) a pattern of violations of mandatory health or safety standards that are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards under section 104(e) of such Act (30 U.S.C. 814(e)); or

(B) the potential to have such a pattern.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any obligation of a person to make a disclosure under any other applicable law in effect before, on, or after the date of enactment of this Act.

(d) COMMISSION AUTHORITY.—

(1) ENFORCEMENT.—A violation by any person of this section, or any rule or regulation of the Commission issued under this section, shall be treated for all purposes in the same manner as a violation of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the rules and regulations issued thereunder, consistent with the provisions of this section, and any such person shall be subject to the same penalties, and to the same extent, as for a violation of such Act or such rules or regulations.

(2) RULES AND REGULATIONS.—The Commission is authorized to issue such rules or regulations as are necessary or appropriate for the protection of investors and to carry out the purposes of this section.

(e) DEFINITIONS.—In this section—

(1) the terms ''issuer'' and ''securities laws'' have the meaning given the terms in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(2) the term ''coal or other mine'' means a coal or other mine, as defined in section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802), that is subject to the provisions of such Act (30 U.S.C. 801 et seq.); and

(3) the term ''operator'' has the meaning given the term in section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802).

SA 3887. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, Mr. CORKER, and Mr. JOHANNS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1089, strike line 6 and all that follows through ''**SEC. 973.**''

SA 3888. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3217 submitted by Mrs. FEINSTEIN and intended to be proposed to the amendment SA 2786 proposed by Mr. REID (for himself, Mr.BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, entitled The Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DELAY OF IMPLEMENTATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall delay the implementation of the final rule entitled ''Lead; Renovation, Repair, and Painting Program; Lead Hazard Information Pamphlet; Notice of Availability; Final Rule'' (73 Fed. Reg. 21692 (April 22, 2008)), and the final rule entitled ''Lead; Amendment to the Opt-out and Recordkeeping Provisions in the Renovation, Repair, and Painting Program'', signed by the Administrator on April 22, 2010, in each State until such time as accredited certified renovator classes have been held in the State, for a period of at least 1 year, to train contractors in practices necessary for compliance with the final rules, as determined by the Administrator.

(b) NOTIFICATION.—The Administrator shall—

(1) monitor each State to determine when classes described in subsection (a) are offered in the State; and

(2) provide to each Member of Congress representing the State a notification describing—

(A) the location and time of each such class held in the State; and

(B) the date on which the classes have been held for the 1-year period described in subsection (a).

SA 3889. Mr. AKAKA (for himself, Mr. MENENDEZ, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 942, strike line 10 and all that follows through page 951, line 13, and insert the following:

SEC. 913. ESTABLISHMENT OF A FIDUCIARY DUTY FOR BROKERS, DEALERS, AND INVESTMENT ADVISERS, AND HARMONIZATION OF REGULATION.

(a) IN GENERAL.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by this Act, is amended—

(A) by redesignating subsection (i) (relating to security-based swap agreements), as added by section 303(f) of the Commodity Futures Modernization Act of 2000 (Public Law 106-554; 114 Stat. 2763A–455), as subsection (j); and

(B) by adding at the end the following:

''(m) STANDARD OF CONDUCT.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act or the Investment Advisers Act of 1940, the Commission shall promulgate rules to provide that, with respect to a broker or dealer, when providing personalized investment advice about securities to a retail customer (and such other customers as the Commission may by rule provide), the standard of conduct for such broker or dealer with respect to such customer shall be the same as the standard of conduct applicable to an investment adviser under section 211 of the Investment Advisers Act of 1940. The receipt of compensation based on commission or other standard compensation for the sale of securities shall not, in and of itself, be considered a violation of such standard applied to a broker or dealer. Nothing in this section shall require a broker or dealer or registered representative to have a continuing duty of care or loyalty to the customer after providing personalized investment advice about securities.

''(2) DISCLOSURE OF RANGE OF PRODUCTS OFFERED.—Where a broker or dealer sells only proprietary or other limited range of products, as determined by the Commission, the Commission shall by rule require that such broker or dealer provide notice to each retail customer and obtain the consent or acknowledgment of the customer. The sale of only proprietary or other limited range of products by a broker or dealer shall not, in and of itself, be considered a violation of the standard set forth in paragraph (1).

''(3) RETAIL CUSTOMER DEFINED.—For purposes of this subsection, the term 'retail customer' means a natural person, or the legal representative of such natural person, who—

''(A) receives personalized investment advice about securities from a broker or dealer; and

''(B) uses such advice primarily for personal, family, or household purposes.

''(n) OTHER MATTERS.—The Commission shall—

''(1) facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with brokers, dealers, and investment advisers, including any material conflicts of interest; and

''(2) examine and, where appropriate, promulgate rules prohibiting or restricting certain sales practices, conflicts of interest, and compensation schemes for brokers, dealers, and investment advisers that the Commission deems contrary to the public interest and the protection of investors.''.

(2) INVESTMENT ADVISERS ACT OF 1940.—Section 211 of the Investment Advisers Act of 1940 is amended by adding at the end the following new subsections:

''(f) STANDARD OF CONDUCT.—

''(1) IN GENERAL.—The Commission shall promulgate rules to provide that the standard of conduct for all brokers, dealers, and investment advisers, when providing personalized investment advice about securities to retail customers (and such other customers as the Commission may by rule provide), shall be to act in the best interest of the customer without regard to the financial or other interest of the broker, dealer, or investment adviser providing the advice. In accordance with such rules, any material conflicts of interest shall be disclosed and may be consented to by the customer. Such rules shall provide that such standard of conduct shall be no less stringent than the standard applicable to investment advisers under paragraph (1) and (2) of section 206 of this Act when providing personalized investment advice about securities, except the Commission shall not ascribe a meaning to the term 'customer' that would include an investor in a private fund managed by an investment adviser, where such private fund has entered into an advisory contract with such adviser. The receipt of compensation based on commission or fees shall not, in and of itself, be considered a violation of such standard applied to a broker, dealer, or investment adviser.

''(2) RETAIL CUSTOMER DEFINED.—For purposes of this subsection, the term 'retail customer' means a natural person, or the legal representative of such natural person, who—

''(A) receives personalized investment advice about securities from a broker, dealer, or investment adviser; and

''(B) uses such advice primarily for personal, family, or household purposes.

''(g) OTHER MATTERS.—The Commission shall—

''(1) facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with brokers, dealers, and investment advisers, including any material conflicts of interest; and

''(2) examine and, where appropriate, promulgate rules prohibiting or restricting certain sales practices, conflicts of interest, and compensation schemes for brokers, dealers, and investment advisers that the Commission deems contrary to the public interest and the protection of investors.''.

(b) HARMONIZATION OF ENFORCEMENT.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 15 of the Securities Exchange Act of 1934, as amended by subsection (a)(1), is further amended by adding at the end the following new subsection:

''(m) HARMONIZATION OF ENFORCEMENT.—The enforcement authority of the Commission with respect to violations of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer shall include—

''(1) the enforcement authority of the Commission with respect to such violations provided under this Act; and

''(2) the enforcement authority of the Commission with respect to violations of the standard of conduct applicable to an investment advisor under the Investment Advisers Act of 1940, including the authority to impose sanctions for such violations, and

the Commission shall seek to prosecute and sanction violators of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under this Act to same extent as the Commission prosecutes and sanctions violators of the standard of conduct applicable to an investment advisor under the Investment Advisers Act of 1940.''.

(2) INVESTMENT ADVISERS ACT OF 1940.—Section 211 of the Investment Advisers Act of 1940, as amended by subsection (a)(2), is further amended by adding at the end the following new subsection:

''(h) HARMONIZATION OF ENFORCEMENT.—The enforcement authority of the Commission with respect to violations of the standard of conduct applicable to an investment adviser shall include—

''(1) the enforcement authority of the Commission with respect to such violations provided under this Act; and

''(2) the enforcement authority of the Commission with respect to violations of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under the Securities Exchange Act of 1934, including the authority to impose sanctions for such violations, and

the Commission shall seek to prosecute and sanction violators of the standard of conduct applicable to an investment advisor under this Act to same extent as the Commission prosecutes and sanctions violators of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under the Securities Exchange Act of 1934.''.

SA 3890. Mr. BAYH (for himself and Mr. MERKLEY), submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, after line 24, insert the following:

SEC. 122. INTERNATIONAL REGULATORY COORDINATION FOR THE REGULATION AND RESOLUTION OF FINANCIAL INSTITUTIONS.

(a) DEFINITIONS.—As used in this section—

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(2) LARGE, COMPLEX FINANCIAL INSTITUTION.—The term ''large, complex financial institution'' means a bank holding company or company treated as a bank holding company for the purposes of the section 8 of the International Banking Act of 1978 (12 U.S.C. 3106), a company subject to supervision of the Board of Governors under section 113, or such other financial company as the Council may determine, which has the potential to threaten the financial stability of the United States owing to the size or interconnectedness of the institution across more than 1 national jurisdiction.

(3) MULTILATERAL FINANCIAL FORUMS.—The term ''multilateral financial forums'' means the International Monetary Fund, the G20, the Financial Stability Board, the Bank for International Settlement (including the Basel Committee on Bank Supervision), the International Organization of Securities Commissions, the International Association of Insurance Supervisors, the International Association of Deposit Insurers, the International Accounting Standard Board, and other relevant institutions and committees as the Council may determine.

(b) BIANNUAL REPORTS.—

(1) REPORTS.—Not later than January 30, 2011, and biannually thereafter, the Council shall submit public reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of and participation of the United States in international coordination of financial services regulation and supervision efforts at multilateral financial forums.

(2) TESTIMONY.—At the request of the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Financial Services of the House of Representatives, the Secretary and representatives of the relevant regulatory agencies charged with international coordination matters, including the agencies charged with the coordination of capital and resolution matters and markets oversight, shall appear before the committee to provide testimony on the reports submitted under paragraph (1).

(c) CONTENTS OF REPORT.—Each report submitted under subsection (b) shall contain—

(1) an update on the status of and participation of the United States in international coordination efforts at the multilateral financial forums to set minimum standards for the regulation and supervision of financial services regulation, in particular with

respect to large, complex financial institutions, including—

(A) standards on financial firms, including, as relevant—

(i) capital and leverage requirements;

(ii) liquidity requirements;

(iii) consumer protection;

(iv) resolution plans;

(v) contingent capital;

(vi) credit exposure requirements;

(vii) activity limits;

(viii) concentration limits;

(ix) size limits;

(x) public disclosure;

(xi) market transparency;

(xii) executive compensation;

(xiii) risk management; and

(xiv) any other relevant regulatory areas affecting banking, securities, derivatives, insurance, and other financial services;

(B) standards on financial markets, including—

(i) credit and lending markets;

(ii) securities and derivatives markets;

(iii) insurance markets; and

(iv) any other financial service markets, including ensuring the necessary public transparency, integrity, and stability;

(C) standards on the supervision of financial firms and markets, including ensuring national and international regulators have—

(i) adequate access to real-time information;

(ii) engaged in adequate coordination with international counterparts; and

(iii) made adequate preparation for crisis management; and

(D) an evaluation of—

(i) any gaps in the international coordination of regulation and supervision of financial services; and

(ii) whether international coordination adequately permits individual countries to employ a diversity of regulatory approaches in practice without permitting regulatory arbitrage or other pressures to relax necessary protections;

(2) an update on the status of and participation of the United States in international coordination efforts at the multilateral financial forums to develop adequate cross-border bankruptcy and resolution regimes, specifically for large, complex financial institutions, including the development and maintenance of—

(A) legal regimes at the national and international level that—

(i) enforce market discipline;

(ii) deter explicit or implicit reliance on the public treasury; and

(iii) equitably share burdens in restructuring credit across 1 or more bankruptcy or resolution regimes;

(B) information systems and regulator coordination, including—

(i) maps of global exposures and cross-exposures emanating from large complex financial institutions;

(ii) charts of the legal structure and regulatory regimes governing various subsidiaries and affiliates of large complex financial institutions; and

(iii) contingency plans for communication and real-time crisis management with respect to the possible failure of each relevant key large complex financial institution; and

(C) information systems to—

(i) detect and promptly respond to the insolvency or illiquidity of 1 or more foreign or United States large complex financial institutions or markets; and

(ii) mitigate the direct and indirect risks to the economy of the United States from the failure of the institution or market;

(3) the dissenting or divergent views of any members of the Council; and

(4) any other updates the Council determines is appropriate.

(d) CONGRESSIONAL CONSULTATION.—

(1) IN GENERAL.—In addition to any other consultation required by law, before initiating negotiations to enter into any international agreement on financial regulation, supervision, or resolution, and from time to time during such negotiations, the Secretary and representatives of the relevant regulatory agencies shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of financial, fiscal, and economic stability in the United States; and

(C) the implementation of the agreement, including any effect the agreement may have on existing Federal or State laws.

(e) STUDY ON INTERNATIONAL COORDINATION AND DIVERSITY.—Not later than September 30, 2011, the Council shall submit a report to Congress, including any dissenting or divergent views of any members of the Council, regarding risks to the financial, fiscal, and economic stability of the United States presented by foreign or United States large complex financial institutions.

SA 3891. Mr. CASEY (for himself, Mrs. GILLIBRAND, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X appropriate place, insert the following:

SEC. 1078. EMERGENCY MORTGAGE RELIEF.

(a) USE OF TARP FUNDS.—Using the authority available under sections 101(a) and 115(a) of division A of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a), 5225(a)), the Secretary of the Treasury shall transfer to the Secretary of Housing and Urban Development $3,000,000,000, and the Secretary of Housing and Urban Development shall credit such amount to the Emergency Homeowners' Relief Fund, which such Secretary shall establish pursuant to section 107 of the Emergency Housing Act of 1975 (12 U.S.C. 2706), as such Act is amended by this section, for use for emergency mortgage assistance in accordance with title I of such Act.

(b) REAUTHORIZATION OF EMERGENCY MORTGAGE RELIEF PROGRAM.—Title I of the Emergency Housing Act of 1975 is amended—

(1) in section 103 (12 U.S.C. 2702)—

(A) in paragraph (2)—

(i) by striking ''have indicated'' and all that follows through ''regulation of the holder'' and inserting ''have certified'';

(ii) by striking ''(such as the volume of delinquent loans in its portfolio)''; and

(iii) by striking '', except that such statement'' and all that follows through ''purposes of this title''; and

(B) in paragraph (4), by inserting ''or medical conditions'' after ''adverse economic conditions'';

(2) in section 104 (12 U.S.C. 2703)—

(A) in subsection (b), by striking '', but such assistance'' and all that follows through the period at the end and inserting the following: ''. The amount of assistance provided to a homeowner under this title shall be an amount that the Secretary determines is reasonably necessary to supplement such amount as the homeowner is capable of contributing toward such mortgage payment, except that the aggregate amount of such assistance provided for any homeowner shall not exceed $50,000.'';

(B) in subsection (d), by striking ''interest on a loan or advance''and all that follows through the end of the subsection and inserting the following: ''(1) the rate of interest on any loan or advance of credit insured under this title shall be fixed for the life of the loan or advance of credit and shall not exceed the rate of interest that is generally charged for mortgages on single-family housing insured by the Secretary of Housing and Urban Development under title II of the National Housing Act at the time such loan or advance of credit is made, and (2) no interest shall be charged on interest which is deferred on a loan or advance of credit made under this title. In establishing rates, terms and conditions for loans or advances of credit made under this title, the Secretary shall take into account a homeowner's ability to repay such loan or advance of credit.''; and

(C) in subsection (e), by inserting after the period at the end of the first sentence the following: ''Any eligible homeowner who receives a grant or an advance of credit under this title may repay the loan in full, without penalty, by lump sum or by installment payments at any time before the loan becomes due and payable.'';

(3) in section 105 (12 U.S.C. 2704)—

(A) by striking subsection (b);

(B) in subsection (e)—

(i) by inserting ''and emergency mortgage relief payments made under section 106'' after ''insured under this section''; and

(ii) by striking ''$1,500,000,000 at any one time'' and inserting ''$3,000,000,000'';

(C) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(D) by adding at the end the following new subsection:

''(e) The Secretary shall establish underwriting guidelines or procedures to allocate amounts made available for loans and advances insured under this section and for emergency relief payments made under section 106 based on the likelihood that a mortgagor will be able to resume mortgage payments, pursuant to the requirement under section 103(5).'';

(4) in section 107—

(A) by striking ''(a)''; and

(B) by striking subsection (b);

(5) in section 108 (12 U.S.C. 2707), by adding at the end the following new subsection:

''(d) COVERAGE OF EXISTING PROGRAMS.—The Secretary shall allow funds to be administered by a State that has an existing program that is determined by the Secretary to provide substantially similar assistance to homeowners. After such determination is made such State shall not be required to modify such program to comply with the provisions of this title.'';

(6) in section 109 (12 U.S.C. 2708)—

(A) in the section heading, by striking ''AUTHORIZATION AND'';

(B) by striking subsection (a);

(C) by striking ''(b)''; and

(D) by striking ''1977'' and inserting ''2011'';

(7) by striking sections 110, 111, and 113 (12 U.S.C. 2709, 2710, 2712); and

(8) by redesignating section 112 (12 U.S.C. 2711) as section 110.

SEC. 1079. ADDITIONAL ASSISTANCE FOR NEIGHBORHOOD STABILIZATION PROGRAM.

Using the authority made available under sections 101(a) and 115(a) of division A of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a), 5225(a)), the Secretary of the Treasury shall transfer to the Secretary of Housing and Urban Development $1,000,000,000, and the Secretary of Housing and Urban Development shall use such amounts for assistance to States and units of general local government for the redevelopment of abandoned and foreclosed homes, in accordance with the same provisions applicable under the second undesignated paragraph under the heading ''Community Planning and Development—Community Development Fund'' in title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 217) to amounts made available under such second undesignated paragraph, except as follows:

(1) Notwithstanding the matter of such second undesignated paragraph that precedes the first proviso, amounts made available by this section shall remain available until expended.

(2) The 3rd, 4th, 5th, 6th, 7th, and 15th provisos of such second undesignated paragraph shall not apply to amounts made available by this section.

(3) Amounts made available by this section shall be allocated based on a funding formula for such amounts established by the Secretary in accordance with section 2301(b) of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301 note), except that—

(A) notwithstanding paragraph (2) of such section 2301(b), the formula shall be established not later than 30 days after the date of the enactment of this Act;

(B) the Secretary may not establish any minimum grant amount or size for grants to States;

(C) the Secretary may establish a minimum grant amount for direct allocations to units of general local government located within a State, which shall not exceed $1,000,000; and

(D) each State and local government receiving grant amounts shall establish procedures to create preferences for the development of affordable rental housing for properties assisted with amounts made available by this section.

(4) Paragraph (1) of section 2301(c) of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section.

(5) Section 2302 of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section.

(6) The fourth proviso from the end of such second undesignated paragraph shall be applied to amounts made available by this section by substituting ''2013'' for ''2012''.

(7) Notwithstanding section 2301(a) of the Housing and Economic Recovery Act of 2008, the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and other territory or possession of the United States for purposes of this section and title III of division B of such Act, as applied to amounts made available by this section.

(8)(A) None of the amounts made available by this section shall be distributed to—

(i) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or

(ii) any organization which employs applicable individuals.

(B) In this paragraph, the term ''applicable individual'' means an individual who—

(i) is—

(I) employed by the organization in a permanent or temporary capacity;

(II) contracted or retained by the organization; or

(III) acting on behalf of, or with the express or apparent authority of, the organization; and

(ii) has been convicted for a violation under Federal law relating to an election for Federal office.

SA 3892. Mr. BINGAMAN (for himself, Ms. MURKOWSKI, Mr. REID, Mr. BROWNBACK, Ms. CANTWELL, Mr. CORNYN, Mr. WYDEN, and Mr. CORKER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 565, between lines 2 and 3, insert the following:

(e) JUST AND REASONABLE RATES.—Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(C)) (as amended by section 717(a)) is amended by adding at the end the following:

''(vi) Notwithstanding the exclusive jurisdiction of the Commission with respect to accounts, agreements, and transactions involving swaps or contracts of sale of a commodity for future delivery under this Act, no provision of this Act shall be construed—

''(I) to supersede or limit the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.); or

''(II) to restrict the Federal Energy Regulatory Commission from carrying out the duties and responsibilities of the Federal Energy Regulatory Commission to ensure just and reasonable rates and protect the public interest under the Acts described in subclause (I).''.

(f) PUBLIC INTEREST WAIVER.—Section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) (as amended by section 721(d)) is amended by adding at the end the following:

''(6) If the Commission determines that the exemption would be consistent with the public interest and the purposes of this Act, the Commission shall, in accordance with paragraphs (1) and (2), exempt from the requirements of this Act an agreement, contract, or transaction that is entered into pursuant to—

''(A) a tariff or rate schedule approved or permitted to take effect by the Federal Energy Regulatory Commission; or

''(B) a tariff or rate schedule establishing rates or charges for the sale of electric energy approved or permitted to take effect by the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy to consumers within the State or municipality.''.

SA 3893. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1304, line 11, strike ''person—'' and insert ''covered person—''.

On page 1305, line 2, strike ''practice,'' and insert ''practice that violates this title or applicable rules or orders issued by the Bureau,''.

On page 1310, between lines 16 and 17, insert the following:

(3) FEE STRUCTURE.—

(A) IN GENERAL.—Neither an attorney general of a State nor a State regulator may enter into a contingency fee agreement for legal services relating to a civil action or other proceeding under this section.

(B) DEFINITION.—For purposes of this paragraph, the term ''contingency fee agreement'' means a contract or other agreement to provide services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.

SA 3894. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail,'' to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 976, strike line 7 and all that follows through page 977, line 17.

On page 1290, strike line 5 and all that follows through page 1291, line 9.

On page 1371, strike line 15 and all that follows through page 1372, line 2.

SA 3895. Mr. CORNYN submitted an amendment intended to be proposed to him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 919C. SECURITIES LITIGATION ATTORNEY ACCOUNTABILITY AND TRANSPARENCY.

(a) DISCLOSURES OF PAYMENTS, FEE ARRANGEMENTS, CONTRIBUTIONS, AND OTHER POTENTIAL CONFLICTS OF INTEREST BETWEEN PLAINTIFF AND ATTORNEYS.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 21D(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–4(a)) is amended by adding at the end the following new paragraphs:

''(10) DISCLOSURES REGARDING PAYMENTS.—

''(A) SWORN CERTIFICATIONS REQUIRED.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identify any direct or indirect payment, or promise of any payment, by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff, beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (4). Upon disclosure of any such payment or promise of payment, the court shall disqualify the attorney from representing the plaintiff.

''(B) DEFINITION.—For purposes of this paragraph, the term 'payment' shall include the transfer of money and any other thing of value, including the provision of services, other than representation of the plaintiff in the private action arising under this title.

''(11) DISCLOSURES REGARDING LEGAL REPRESENTATIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies the nature and terms of any legal representation provided by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff other than the representation of the plaintiff in the private action arising under this title. The court may allow such certifications to be made under seal. The court shall make a determination whether the nature or terms of the fee arrangement for any other matter influenced the selection and retention of counsel in any private action arising under this title and, if the court so finds, shall disqualify the attorney from representing the plaintiff in any such action.

''(12) DISCLOSURES REGARDING CONTRIBUTIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any contribution made within five years prior to the filing of the complaint by such attorney, any person affiliated with such attorney, or any political action committee controlled by such attorney, to any elected official with authority to retain counsel for such plaintiff or to select or appoint, influence the selection or appointment of, or oversee any individual or group of individuals with that authority.

''(13) DISCLOSURE REGARDING OTHER CONFLICTS OF INTEREST.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any other conflict of interest (other than one specified in paragraphs (10) through (12)) between such attorney and such plaintiff. The court shall make a determination of whether such conflict is sufficient to disqualify the attorney from representing the plaintiff.''.

(2) SECURITIES ACT OF 1933.—Section 27(a) of the Securities Act of 1933 (15 U.S.C. 77z-1(a)) is amended by adding at the end the following new paragraph:

''(9) DISCLOSURES REGARDING PAYMENTS.—

''(A) SWORN CERTIFICATIONS REQUIRED.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identify any direct or indirect payment, or promise of any payment, by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff, beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (4). Upon disclosure of any such payment or promise of payment, the court shall disqualify the attorney from representing the plaintiff.

''(B) DEFINITION.—For purposes of this paragraph, the term 'payment' shall include the transfer of money and any other thing of value, including the provision of services, other than representation of the plaintiff in the private action arising under this title.

''(10) DISCLOSURES REGARDING LEGAL REPRESENTATIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies the nature and terms of any legal representation provided by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff other than the representation of the plaintiff in the private action arising under this title. The court may allow such certifications to be made under seal. The court shall make a determination whether the nature or terms of the fee arrangement for any other matter influenced the selection and retention of counsel in any private action arising under this title and, if the court so finds, shall disqualify the attorney from representing the plaintiff in any such action.

''(11) DISCLOSURES REGARDING CONTRIBUTIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any contribution made within five years prior to the filing of the complaint by such attorney, any person affiliated with such attorney, or any political action committee controlled by such attorney, to any elected official with authority to retain counsel for such plaintiff or to select or appoint, influence the selection or appointment of, or oversee any individual or group of individuals with that authority.

''(12) DISCLOSURE REGARDING OTHER CONFLICTS OF INTEREST.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any other conflict of interest (other than one specified in paragraphs (9) through (11)) between such attorney and such plaintiff. The court shall make a determination of whether such conflict is sufficient to disqualify the attorney from representing the plaintiff.''.

(b) SELECTION OF LEAD COUNSEL.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 21D(a)(3)(B)(v) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4(a)(3)(B)(v)) is amended by adding at the end the following: ''In exercising the discretion of the court over the approval of lead counsel, the court may employ a competitive bidding process as one of the criteria in the selection and retention of counsel for the most adequate plaintiff.''.

(2) SECURITIES ACT OF 1933.—Section 27(a)(3)(B)(v) of the Securities Act of 1933 (15 U.S.C. 77z-1(a)(3)(B)(v)) is amended by adding at the end the following: ''In exercising the discretion of the court over the approval of lead counsel, the court may employ a competitive bidding process as one of the criteria in the selection and retention of counsel for the most adequate plaintiff.''.

(c) STUDY OF AVERAGE HOURLY FEES IN SECURITIES CLASS ACTIONS.—

(1) STUDY AND REVIEW REQUIRED.—The Comptroller General of the United States shall conduct a study and review of fee awards to lead counsel in securities class actions over the 5-year period preceding the date of enactment of this Act to determine the effective average hourly rate for lead counsel in such actions.

(2) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by this section. The Comptroller General shall submit an updated study every 3 years thereafter.

(3) DEFINITION.—For purposes of this subsection, the term ''securities class action'' means a private class action arising under the Securities Act of 1933 (15 U.S.C. 77 et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

(d) AUTHORITY TO IMPOSE CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—

(1) UNDER THE SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following:

''(g) AUTHORITY TO IMPOSE MONEY PENALTIES.—

''(1) GROUNDS.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil penalty on a person, if the Commission finds, on the record, after notice and opportunity for hearing, that—

''(A) the person—

''(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

''(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder; and

''(B) the imposition of the penalty is in the public interest.

''(2) MAXIMUM AMOUNT OF PENALTY.—

''(A) FIRST TIER.—The maximum amount of a penalty for each act or omission described in paragraph (1) shall be $7,500 for a natural person or $75,000 for any other person.

''(B) SECOND TIER.—Notwithstanding subparagraph (A), if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement, the maximum amount of penalty for each act or omission shall be $75,000 for a natural person or $375,000 for any other person.

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $150,000 for a natural person or $725,000 for any other person, if—

''(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

''(ii) the act or omission directly or indirectly resulted in—

''(I) substantial losses or created a significant risk of substantial losses to other persons; or

''(II) substantial pecuniary gain to the person who committed the act or omission.

''(3) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of the ability of the respondent to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of the respondent and the amount of the assets of the respondent.''.

(2) UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(A) by striking the undesignated matter immediately following paragraph (4);

(B) in the matter preceding paragraph (1), by inserting after ''opportunity for hearing,'' the following: ''that such penalty is in the public interest and'';

(C) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and adjusting the subparagraph margins accordingly;

(D) by striking ''In any proceeding'' and inserting the following:

''(1) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(2) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted under section 21C against any person, the Commission may impose a civil penalty, if the Commission finds, on the record after notice and opportunity for hearing, that such person—

''(A) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

''(B) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.''.

(3) UNDER THE INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(A) by striking the matter immediately following subparagraph (C);

(B) in the matter preceding subparagraph (A), by inserting after ''opportunity for hearing,'' the following: ''that such penalty is in the public interest, and'';

(C) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the clause margins accordingly;

(D) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (f) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

''(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

''(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.''.

(4) UNDER THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(A) by striking the undesignated matter immediately following subparagraph (D);

(B) in the matter preceding subparagraph (A), by inserting after ''opportunity for hearing,'' the following: ''that such penalty is in the public interest and'';

(C) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the clause margins accordingly;

(D) by striking ''In any proceeding'' and inserting the following:

''(A) IN GENERAL.—In any proceeding''; and

(E) by adding at the end the following:

''(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (k) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

''(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

''(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.''.

SA 3896. Mr. GREGG (for himself, Mr. BROWN of Massachusetts, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 320, between lines 11 and 12, insert the following:

(g) PARITY.—Section 10(a)(1)(A) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(A)) is amended to read as follows:

''(A) SAVINGS ASSOCIATION.—The term 'savings association'—

''(i) includes a savings bank or cooperative bank which is deemed by the Director to be a savings association under subsection (l); and

''(ii) does not include an institution described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)).''.

SA 3897. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 584, line 7, after the first period insert the following:

''(k) CLEARING OF CREDIT DEFAULT SWAPS.—

''(1) SUBMISSION.—It shall be unlawful for any party to enter into a credit default swap unless that person shall submit such credit default swap for clearing to a derivatives clearing organization that is registered under this Act or a derivatives clearing organization that is exempt from registration under section 5b(i) of this Act.

''(2) PROHIBITION.—Notwithstanding any other provisions in this section or of this Act, if no derivatives clearing organization will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

''(3) LIMITATION ON SHORT POSITIONS.—

''(A) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity's credit instrument unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

''(i) is undertaking such action to establish a legitimate short position in credit default swaps; or

''(ii) is regulated by the Commission as a swap dealer in credit default swaps, and is acting as a market-maker or is otherwise engaged in a financial transaction on behalf of a customer.

''(B) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

''(i) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer's credit default swaps; and

''(ii) the reference entity or entities for the protection buyer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

''(C) DETERMINATION OF THE COMMISSION.—

''(i) IN GENERAL.—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term 'valid credit instrument'.

''(ii) CONSIDERATIONS AND REQUIREMENTS.—In defining the term 'valid credit instrument', the Commission and the Securities and Exchange Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

''(iii) RULE OF CONSTRUCTION.—For purposes of this paragraph, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

''(D) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

''(E) HOLDING OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SWAP DEALERS.—Any swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that—

''(i) the value of the swap dealer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the swap dealer's position in credit default swaps; and

''(ii) the reference entity or entities for the swap dealer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the swap dealer owns.

''(F) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this subsection.

''(G) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Securities and Exchange Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

''(4) DEFINITIONS.—

''(A) IN GENERAL.—In this subsection, the following definitions shall apply:

''(i) CREDIT DEFAULT SWAP.—The term 'credit default swap'—

''(I) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

''(II) is not a debt security registered with the Securities and Exchange Commission and issued by a corporation, State, municipality, or sovereign entity.

''(ii) CREDIT EVENT.—The term 'credit event' includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

''(iii) PROTECTION BUYER.—The term 'protection buyer' means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the 'protection seller') upon the occurrence of one or more credit events.

''(iv) REFERENCE ENTITY.—The term 'reference entity' means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

''(B) FURTHER DEFINITION OF TERMS.—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms 'credit default swap', 'credit event', 'protection buyer', and 'reference entity'.

On page 808, line 8, after the first period, insert the following:

''SEC. 3C-1. CLEARING OF CREDIT DEFAULT SWAPS.

''(a) SUBMISSION.—It shall be unlawful for any party to enter into a credit default swap unless that person shall submit such credit default swap for clearing to a clearing agency that is registered under section 17A of this Act.

''(b) PROHIBITION.—Notwithstanding any other provisions in this section or of this Act, if no clearing agency will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

''(c) LIMITATION ON SHORT POSITIONS.—

''(1) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity's credit unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

''(A) is undertaking such action to establish a legitimate short position in credit default swaps; or

''(B) is regulated by the Commission as a security-based swap dealer in credit default swaps, and is acting as a market-maker or otherwise for the purpose of serving clients.

''(2) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if —

''(A) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer's credit default swaps; and

''(B) the reference entity or entities for the protection buyer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

''(3) DETERMINATION OF THE COMMISSION.—

''(A) IN GENERAL.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term 'valid credit instrument'.

''(B) CONSIDERATIONS AND REQUIREMENTS.—In defining the term 'valid credit instrument', the Commission and the Commodity Futures Trading Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

''(C) RULE OF CONSTRUCTION.—For purposes of this subsection, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

''(4) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

''(5) HOLDINGS OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SECURITY-BASED SWAP DEALERS.—Any security-based swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that—

''(A) the value of the security-based swap dealer's long holdings in valid credit instruments is equal to or greater than the absolute notional value of the security-based swap dealer's position in credit default swaps; and

''(B) the reference entity or entities for the security-based swap dealer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the security-based swaps dealer owns.

''(6) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this section.

''(7) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Commodity Futures Trading Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

''(d) DEFINITIONS.—

''(1) IN GENERAL.—In this section, the following definitions shall apply:

''(A) CREDIT DEFAULT SWAP.—The term 'credit default swap'—

''(i) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

''(ii) is not a debt security registered with the Commission and issued by a corporation, State, municipality, or sovereign entity.

''(B) CREDIT EVENT.—The term 'credit event' includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

''(C) PROTECTION BUYER.—The term 'protection buyer' means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the 'protection seller') upon the occurrence of one or more credit events.

''(D) REFERENCE ENTITY.—The term 'reference entity' means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

''(2) FURTHER DEFINITION OF TERMS.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms 'credit default swap', 'credit event', 'protection buyer', and 'reference entity'.

SA 3898. Mr. ENSIGN proposed an amendment to amendment SA 3733 proposed by Mr. BROWN of Ohio (for himself, Mr. KAUFMAN, Mr. CASEY, Mr. WHITEHOUSE, Mr. MERKLEY, Mr. HARKIN, Mr. SANDERS, and Mr. BURRIS) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 2 of the amendment, strike lines 11 through 15 and insert the following:

(1) FINANCIAL COMPANY.—The term ''financial company'' means—

(A) any nonbank financial company supervised by the Board;

(B) the Federal National Mortgage Association; and

(C) the Federal Home Loan Mortgage Corporation.

SA 3899. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1219, after line 25, insert the following:

''(e) OFFICE OF MILITARY LIAISON.—

''(1) IN GENERAL.—The Director shall establish an Office of Military Liaison, which shall be responsible for developing and implementing initiatives for service members and their families intended to—

''(A) educate and empower service members and their families to make better informed decisions regarding consumer financial products and services;

''(B) coordinate with the unit of the Bureau established under subsection (b)(3), in order to monitor complaints by service members and their families and responses to those complaints by the Bureau or other appropriate Federal or State agency; and

''(C) coordinate efforts among Federal and State agencies, as appropriate, regarding consumer protection measures relating to consumer financial products and services offered to, or used by, service members and their families.

''(2) COORDINATION.—

''(A) REGIONAL SERVICES.—The Director is authorized to assign employees of the Bureau as may be deemed necessary to conduct the business of the Office of Military Liaison, including by establishing and maintaining the functions of the Office in regional offices of the Bureau located near military bases, military treatment facilities, or other similar military facilities.

''(B) AGREEMENTS.—The Director is authorized to enter into memoranda of understanding and similar agreements with the Department of Defense, including any branch or agency as authorized by the department, in order to carry out the business of the Office of Military Liaison.''.

SA 3900. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, line 23, strike ''and'' and all that follows through ''(G) any'' on line 24 and insert the following:

(G) net potential obligations to third parties in connection with credit derivative transactions between the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) and the third parties that reference the company or obligations of the company; and

(H) any

SA 3901. Mr. CARDIN (for himself, Mr. ENZI, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 333. INCREASE IN DEPOSIT AND SHARE INSURANCE AMOUNTS.

(a) PERMANENT INCREASE IN DEPOSIT INSURANCE.—Section 11(a)(1)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(E)) is amended by striking ''$100,000'' and inserting ''$250,000''.

(b) PERMANENT INCREASE IN SHARE INSURANCE.—Section 207(k)(5) of the Federal Credit Union Act (12 U.S.C. 1787(k)(5)) is amended by striking ''$100,000'' and inserting ''$250,000''.

(c) REPEAL.—Section 136 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5241) is repealed, effective on the date of enactment of this Act.

SA 3902. Mr. FRANKEN (for himself, Ms. SNOWE, Mrs. MURRAY, Mrs. SHAHEEN, Mr. SCHUMER, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. CASEY, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, add the following:

Subtitle I—Office of the Homeowner Advocate

SEC. 1091. OFFICE OF THE HOMEOWNER ADVOCATE.

(a) ESTABLISHMENT.—There is established in the Department of the Treasury an office to be known as the ''Office of the Homeowner Advocate'' (in this subtitle referred to as the ''Office'').

(b) DIRECTOR.—

(1) IN GENERAL.—The Director of the Office of the Homeowner Advocate (in this subtitle referred to as the ''Director'') shall report directly to the Assistant Secretary of the Treasury for Financial Stability, and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) APPOINTMENT.—The Director shall be appointed by the Secretary, after consultation with the Secretary of the Department of Housing and Urban Development, and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(3) QUALIFICATIONS.—An individual appointed under paragraph (2) shall have—

(A) experience as an advocate for homeowners; and

(B) experience dealing with mortgage servicers.

(4) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as Director only if such individual was not an officer or employee of either a mortgage servicer or the Department of the Treasury during the 4-year period preceding the date of such appointment.

(5) HIRING AUTHORITY.—The Director shall have the authority to hire staff, obtain support by contract, and manage the budget of the Office of the Homeowner Advocate.

SEC. 1092. FUNCTIONS OF THE OFFICE.

(a) IN GENERAL.—It shall be the function of the Office of the Homeowner Advocate to—

(1) assist homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary, authorized under the Emergency Economic Stabilization Act of 2008 (in this subtitle referred to as the ''Home Affordable Modification Program'')

(2) identify areas, both individual and systematic, in which homeowners, housing counselors, and housing lawyers have problems in dealings with the Home Affordable Modification Program;

(3) to the extent possible, propose changes in the administrative practices of the Home Affordable Modification Program, to mitigate problems identified under paragraph (2);

(4) identify potential legislative changes which may be appropriate to mitigate such problems; and

(5) implement other programs and initiatives that the Director deems important to assisting homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program, which may include—

(A) running a triage hotline for homeowners at risk of foreclosure;

(B) providing homeowners with access to housing counseling programs of the Department of Housing and Urban Development at no cost to the homeowner;

(C) developing Internet tools related to the Home Affordable Modification Program; and

(D) developing training and educational materials.

(b) AUTHORITY.—

(1) IN GENERAL.—Staff designated by the Director shall have the authority to implement servicer remedies, on a case-by-case basis, subject to the approval of the Assistant Secretary of the Treasury for Financial Stability.

(2) LIMITATIONS ON FORECLOSURES.—No homeowner may be taken to a foreclosure sale, until the earlier of the date on which the Office of the Homeowner Advocate case involving the homeowner is closed, or 60 days since the opening of the Office of the Homeowner Advocate case involving the homeowner have passed, except that nothing in this section may be construed to relieve any loan servicers from any otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

(3) RESOLUTION OF HOMEOWNER CONCERNS.—The Office shall, to the extent possible, resolve all homeowner concerns not later than 30 days after the opening of a case with such homeowner.

(c) COMMENCEMENT OF OPERATIONS.—The Office shall commence its operations, as required by this subtitle, not later than 3 months after the date of enactment of this Act.

(d) SUNSET.—The Office shall cease operations as of the date on which the Home Affordable Modification Program ceases to operate.

SEC. 1093. RELATIONSHIP WITH EXISTING ENTITIES.

(a) TRANSFER.—The Office shall coordinate and centralize all complaint escalations relating to the Home Affordable Modification Program.

(b) HOTLINE.—The HOPE hotline (or any successor triage hotline) shall reroute all complaints relating to the Home Affordable Modification Program to the Office.

(c) COORDINATION.—The Office shall coordinate with the compliance office of the Office of Financial Stability of the Department of the Treasury and the Homeownership Preservation Office of the Department of the Treasury.

SEC. 1094. REPORTS TO CONGRESS.

(a) TESTIMONY.—The Director shall be available to testify before the Committee on

Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not less frequently than 4 times a year, or at any time at the request of the Chairs of either committee.

(b) REPORTS.—Once annually, the Director shall provide a detailed report to Congress on the Home Affordable Modification Program. Such report shall contain full and substantive analysis, in addition to statistical information, including, at a minimum—

(1) data and analysis of the types and volume of complaints received from homeowners, housing counselors, and housing lawyers, broken down by category of servicer, except that servicers may not be identified by name in the report;

(2) a summary of not fewer than 20 of the most serious problems encountered by Home Affordable Modification Program participants, including a description of the nature of such problems;

(3) to the extent known, identification of the 10 most litigated issues for Home Affordable Modification Program participants, including recommendations for mitigating such disputes;

(4) data and analysis on the resolutions of the complaints received from homeowners, housing counselors, and housing lawyers;

(5) identification of any programs or initiatives that the Office has taken to improve the Home Affordable Modification Program;

(6) recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by Home Affordable Modification Program participants; and

(7) such other information as the Director may deem advisable.

SEC. 1095. FUNDING.

Amounts made available for the costs of administration of the Home Affordable Modification Program that are not otherwise obligated shall be available to carry out the duties of the Office. Funding shall be maintained at levels adequate to reasonably carry out the functions of the Office.

SA 3903. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1051, line 2, after the comma insert the following: ''or, with respect to any such transaction, an institution that sells or transfers assets, either directly or indirectly, including through an affiliate, to the Federal Agricultural Mortgage Corporation for the purpose of securitization,''.

SA 3904. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 487, line 15, after the comma insert ''the Federal Home Loan Bank System, the Federal Farm Credit Banks Funding Corporation, the Federal Agricultural Mortgage Corporation,''.

SA 3905. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 648, strike line 11 and all that follows through page 649, line 2, and insert the following:

stitutions shall contain a capital requirement that is greater than zero.

SA 3906. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 855, strike lines 8 through 20 and insert the following:

tain a capital requirement that is greater than zero.

SA 3907. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 577, strike lines 5 through 24.

SA 3908. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 793, strike line 5 and all that follows through page 794, line 3.

SA 3909. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 612, line 24, strike ''burden'' and insert ''burden on clearing on the derivatives clearing organization''

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the State and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, May 20, 2010, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on S. 2921, to provide for the conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area, to require the Secretary of the Interior to designate certain offices to serve as Renewable Energy Coordination Offices for coordination of Federal permits for renewable energy projects and transmission lines to integrate renewable energy development, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510–6150, or by email to testimony@energy.senate.gov.

For further information, please contact David Brooks at (202) 224–9863 or Allison Seyferth at (202) 224–4905.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 6, 2010, at 10 a.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on May 6, 2010, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on May 6, 2010, at 9:30 a.m., in room 406 of the Dirksen Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 6, 2010, at 9:30 a.m., to hold a hearing entitled ''The Meaning of Marjah.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate to conduct a hearing entitled ''Ensuring Fairness for Older Workers'' on May 6, 2010. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on May 6, 2010, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

SUBCOMMITTEE ON SEAPOWER

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet during the session of the Senate on May 6, 2010, at 2:30 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 6, 2010, at 2:30 p.m.

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

HAITI ECONOMIC LIFT PROGRAM ACT OF 2010

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5160, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5160) to extend the Caribbean Basin Economic Recovery Act, to provide customs support services to Haiti, and for other purposes.

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

Mr. SCHUMER. Mr. President, I ask unanimous consent that the bill be read a third time.

The bill (H.R. 5160) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. Is there further debate?

If not, the question is, Shall the bill pass?

The bill (H.R. 5160) was passed.

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

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

ORDERS FOR FRIDAY, MAY 7, 2010

Mr. SCHUMER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, May 7; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 3217, Wall Street reform.

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

PROGRAM

Mr. SCHUMER. Mr. President, there will be no rollcall votes during Friday's session of the Senate.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SCHUMER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 9:17 p.m., adjourned until Friday, May 7, 2010, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate, Thursday, May 6, 2010:

DEPARTMENT OF COMMERCE

LARRY ROBINSON, OF FLORIDA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.