taking a look at the drastic reduction of automobile sales. But one factor came through loudly and clearly, and that was the potential consequences if the automotive industry—the Big Three—collapse, that we would be without the major portion of the industrial base in the United States, which as we all know in time of national emergency, in time of war, is indispensable for the defense of our country.

So my staff and I and my colleagues are all taking a very close look at the proposals which the Big Three have made. I had a request to meet with General Motors and we will be doing that tomorrow. We are talking to a lot of people who were totally opposed to economic aid from the Federal Government. So we have to weigh the consequences as to what happens if economic aid is not given. It is hard to calculate what the consequences will be on the economy, but some of the predictions are virtually catastrophic. We must weigh that against the likelihood of the success of the plans, and it all depends on the quality of those plans.

I thank the Chair. I know Senator DORGAN is close at hand, but in the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senator from New Mexico be recognized for 1 minute, I believe, and following which I would be recognized.

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

The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I thank my colleague.

REMEMBERING ALICE MARTIN KING

Mr. BINGAMAN. Last night, Alice King, one of New Mexico's most respected and best loved citizens, died as a result of a stroke. This is a tremendous loss to our State, and certainly to her husband, former Governor Bruce King, and her sons Bill and Gary and all of the family.

Anyone who has lived in New Mexico for any amount of time in recent decades has actually felt they were a part of the King family in a way. Republicans and Democrats alike, ranchers or lawyers or pipefitters or schoolchildren, the Kings knew virtually everyone in our State, and nearly everyone in the State felt they knew the Kings. Certainly our State has benefited from the decades of public service the many members of the family have given, led by Bruce and Alice. He was the Governor of our State three times in three different decades and by his side always was his partner Alice. He was at her side last night.

She was always more than just the Governor's wife. She was a leader in our State on children's issues. She was the force behind the creation of a cabinet level department, the Department of Children, Youth and Families. A vigorous, tireless, undaunted advocate for children, she lifted them and their issues to the top of our State's list of priorities, and she was their champion.

New Mexico has lost an invaluable citizen, one whose accomplishments are part of our history and part of our future. She was a great person, a great friend to many people, including my wife Anne and me. We join the King family in grieving the loss of this wonderful woman and remembering her with appreciation and love.

Mr. President, I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. DORGAN. Mr. President, I ask unanimous consent that morning business be extended for 1 hour, with Senators permitted to speak for up to 10 minutes each.

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

Mr. DORGAN. I ask unanimous consent to be recognized as in morning business for 20 minutes.

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

AUTOMOBILE INDUSTRY LOAN BAILOUT

Mr. DORGAN. Mr. President, this week there will be a lot of discussion on the floor of the Senate about a bridge loan to the automobile industry in this country. I wish to speak about a bit of it here. It is quite clear that this country faces very serious financial problems—perhaps the most serious in my lifetime. We know that thoughtful leadership can help move this country past these problems and to address these problems, but they indeed are very serious.

Here is a description of the jobs that have been lost since the first of this year. Nearly 2 million private sector jobs have been lost this year.

This is kind of sanitary and doesn't mean so much in terms of numbers. But every one of those nearly 2 million people had to go home this year to tell a loved one or their family that they didn't have a job any longer. A job is what makes much of the other things that are good in our life possible. Nearly 2 million have lost jobs.

Most Americans who have some sort of retirement savings, whether it is a 401(k) or an IRA, if they have looked—and some have not—they have discovered that 30 to 40 percent of that is now gone, washed away by a serious financial crisis. Millions of people have lost their homes and millions more will unless something is done. It is one thing to lose a home, it is another thing to lose a job; but to lose a job and a home is a devastating blow to the American family. This is more than some sort of normal contraction of the business cycle.

I have said before that I taught economics in college. When you teach economics, you teach about the business cycle. There is a contraction phase and an expansion phase of the business cycle.

This is not a recession that is a result of a contraction phase of the business cycle. This is something very different. This is a financial collapse, a financial crisis. This is manmade. This is not some force of nature that is visited upon a population. This is a result of reckless business practices by some of the largest financial firms in this country.

Unfortunately, instead of dealing with the cause, there is much effort now to throw money at the biggest firms in the country that helped steer our economy into the ditch. I am not suggesting there is not a requirement to make a very significant investment in portions of the economy to try to provide buoyancy and some lift to steer this country out of the recession. But there is an old country saying that the water won't clear up until you get the hogs out of the creek. What I see day after day is the movement of money to the very interests that steered this country into the ditch and caused the wreck in the first place.

This morning, I read in the Wall Street Journal about the CEO of Merrill Lynch, who is suggesting to the directors that he get a 2008 bonus of as much as $10 million. Merrill Lynch is one of the companies that has been in some difficulty. In fact, Merrill Lynch has been purchased and, as you will note from this chart, the top five banks that received taxpayer funds—I have not only listed them, but I talked about the amount of derivatives holdings they have. A substantial part of this recklessness has been hedge fund and CDOs and credit default swaps. J.P. Morgan got $25 billion in bailout funds, with $91.3 trillion in notional value as their derivatives holdings. Citigroup got $45 billion in bailout funds, plus we have guaranteed $306 billion of their toxic assets as well; and they have $37 trillion in derivatives holdings. The list goes on.

Bank of America got $15 billion, and they have $39 trillion in notional value of derivatives. This is what I call ''dark money.'' Nobody knows where it is; nobody knows who is liable for it; nobody knows what kind of exposure this rancid, reckless dark money imposes on the balance sheets of America's financial institutions.

We are discovering that some of the largest financial institutions in the country failed, and the Treasury Secretary came to the Congress about a month and a half ago and said: I want $700 billion, and I want it in 3 days; otherwise, the economy will collapse. He got the $700 billion but not in 3 days.

He said: I want the $700 billion in order to buy toxic assets from the balance sheets of some of the largest financial institutions. I said at that time that I would not vote for it unless provisions require rulemaking to regulate the kinds of institutions that have steered this country into the ditch.

They said that was not possible. Then I said that it is not possible for me to vote for $700 billion if we are not putting regulations into place to give us the protection the American taxpayer needs. So what we have seen now in recent days and weeks is the Treasury Secretary decide: Well, I am not going to do what I said I was going to do with the $700 billion. Instead of buying toxic assets from the balance sheets of the largest financial institutions, I am going to invest capital in some of America's largest banks, with the thought that they will expand lending. The credit markets are frozen, and we can get the economy moving again. The Treasury Secretary said: I am not going to do what I told the Congress I was going to do. Instead, I am going to increase the capital in banks. He got $125 billion and put it into nine banks, some of which didn't want it. He didn't say that as a result of this you have to expand lending or as a result of this you cannot provide bonuses or as a result of this you cannot provide dividends. He gave them the money with no strings attached. It made no sense to me at all.

Some of this money is moving around into the dark crevasses of the financial institutions that were engaged in some of the most reckless financial practices I have seen in my lifetime, and with no conditions at all. It is interesting to me—and I am not here to make the case for the auto loan. I think the bridge loan to the automobile industry is probably something you have to do to avoid putting 2, 3, or 4 million people on the unemployment rolls at a time when the economy is teetering on the edge of a cliff. But the fact is, when the automobile industry executives came to this town, I came to the floor and said it was ham-handed what they did and that they ought to agree to work for a dollar a year. They have been making $2 million a month. They have been doing right well. I thought it was a ham-handed approach the first time they showed up here.

But the discussion about any bridge loan to the automobile industry is a different discussion than the one that happened with all of the financial industries. When the Treasury Secretary anted up $45 billion in total to Citigroup—and they said, by the way, we will also guarantee $306 billion of bad assets that you have on your books—did he ask for any conditions on that? Were there any restrictions? Did anybody get fired or lose their job in this company? Were there any restrictions on the use of that money? Were there any restrictions that they cannot pay bonuses? Did anybody say that they ought to park their private jets? No, not at all.

The biggest financial institutions have been showered with massive quantities of money, with no significant conditions. So today one of the failed institutions—at least one of the institutions that had to be purchased in order to be saved—the CEO says to the board of directors: I want a $10 million bonus for this year. This is a company that suffered $11.6 billion in losses this year, and the CEO says he wants a $10 million bonus. You talk about boneheaded. Are they not learning anything? We are talking about American taxpayer dollars being spent around this Wall Street crowd by the Treasury Secretary in massive quantities, without any restrictions that I am aware of. There is no accountability. By the way, you cannot even find transparency. Here is what we think is happening. By the way, this comes from pretty good reporting from Bloomberg and some others. So far, the federal financial bailout has put $8.5 trillion in taxpayer money at risk. The Federal Reserve programs, we are told at this point, guarantee about $5.5 trillion.

As you know, they opened their window for the first time in history for direct lending to investment banks at the Federal Reserve Board. We don't know what the taxpayers are on the hook for. Here is what some people have been forced to dig up, after we were promised there was going to be complete transparency, that the American people are going to be part of it. Some reporters have done some work. The Federal Reserve Program has $5.5 trillion pledged; FDIC pledges $1.5 trillion; Treasury Department, $1.1 trillion; Federal Housing Administration, $300 billion. So that is $8.5 trillion put at risk so far.

The question is, where is the accountability? Where is the oversight? Where is the regulatory schematic that says we are not going to allow this to happen again? I come from ranching country, southwestern North Dakota. We raise cattle and horses. I understand the notion about closing the gate. You cannot forget to close the gate. Nobody is closing the gate—nobody. I want to remind some folks that part of the origin of this goes back almost 10 years to the Financial Modernization Act. We were hopelessly old-fashioned, we were told. Senator Gramm from Texas led the effort. It was the Gramm-Leach-Bliley financial modernization bill. There were restrictions in place, such as Glass-Steagall and others, relative to investments in real estate and securities. They said let's get rid of those restrictions. They are hopelessly old-fashioned. So Congress got rid of all those restrictions. President Clinton signed it. A good number in his administration supported getting rid of those restrictions. I was one of eight Senators on the floor of the Senate who voted no. I said I think we will see massive taxpayer bailouts within a decade. When you put together real estate, securities and insurance with banking, you are asking for trouble. By the way, add to that a new administration that came in and, for the last 8 years, said we are interested in being willfully blind with respect to regulation. So the Financial Modernization Act was passed, and it was let them do what they want. They loaded up companies with massive amounts of risk.

One other thing, and I have described this before. I want to remind people. This is Countrywide, the biggest mortgage bank in the country. They told people this: Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us. They said: Come here if you have bad credit. We will give you a loan.

Milennia Mortgage said: 12 months, no mortgage payments. That's right, we will give you the money to make the first 12 months' payments. We will pay for it.

Here is Zoom Credit: Credit approval is seconds away. At the speed of light we will preapprove you for a loan. Even if your credit is in the tank, Zoom Credit is like money in the bank. We specialize in credit repair and debt consolidation. Bankruptcy, slow credit, no credit, who cares. Come to us.

They will all be making a fortune. Mr. Mozilo ran Countrywide, and he left with $200 million when the whole thing collapsed. They said: Get a loan from us. It is called a subprime loan. It is called a no-documentation-of-income loan, or a no-doc loan. If you want a no-doc loan, we have it. How about a loan where you don't have to pay any principle at all? Or, even better, you don't have to pay on the principle or even all of the interest. We will put it on the back side of the note. Isn't that unbelievable? Why did they do that? They were making a massive amount of money. They put these loans out, and then they would securitize them and slice them and dice them like sawdust in sausage and then sell them up the line. The mortgage banks sell them to a hedge fund, or an investment bank sells it to a hedge fund. They are all making big fees, grunting and shoving like hogs in a corn crib, massive amounts of money, big bonuses.

They built a house of cards. Meanwhile, regulators are dead from the neck up, content to be willfully blind. The house of cards began to collapse. When it began to collapse, it caused a significant problem with this entire economy. As I have described, millions of people lost their homes, millions are out of work, and there will be more in the future. Unfortunately, the question is, What do we do next? I am all for doing emergency things, and I believe it is very important to do as President-elect Obama has suggested. You need to invest to try to get the economy moving again. It makes a lot of sense to me to invest in the kinds of things that produce an asset for the future. We should build roads and bridges and repair infrastructure and schools and libraries and water projects—the kinds of things that invest in this country's future—because all of that puts American people back to work, on payrolls. And when people are working again, people are consumers again and they are going into the stores and creating an economy that is vibrant and expanding once again. That is what we have to do.

There are more things I think that would make some sense, and one of the things I think, in addition to the stimulus program the President-elect is talking about, which I intend to be very supportive of, are some tax incentives we should also consider. These things, if you put an end date on them, if you make these investments before the end date, they can stimulate economic activity in the short term. For example, a temporary 15-percent investment tax credit for manufacturers and producers in order to buy crucial equipment and machinery purchases; extending for 18 additional months enhanced 50-percent bonus depreciation; extending enhanced $250,000 business expensing—all of these things are incentives to say, in this case to businesses, if you make this investment now, there is a tax incentive for doing so.

That is also what tends to kickstart this economy—a program that would provide an opportunity for a stimulus investment and a program of directed tax incentives that would get this country moving once again.

Mr. Arthur Levitt had a piece in the Wall Street Journal a while back titled ‘‘How to Restore Confidence in Our Markets. A Unified Regulator Would Be a Start.’’ Let me quote it for a minute.

> Our Nation's financial markets are in the midst of their darkest hour in 76 years. We are in this situation because of an adherence to a deregulatory approach . . . Our regulatory system failed to adapt to important, dynamic and potentially lethal new financial instruments as the storm clouds gathered. Trust in our institutions and faith in the system are . . . imperative to the functioning of our markets. Creating a regulator that stands on the side of investors and oversees the broad market will help restore that trust.

We don't have a choice. We cannot continue to allow that which has happened in the past to happen in the future. Yet there is no urgent discussion here about what kind of regulation is necessary. He talks in this piece about the new financial instruments. What has happened in recent years is we have a lot of financial engineers on Wall Street who create these exotic products. It is all about making money. They create all these exotic products that turn out to be unregulated, many of which you cannot even understand. The question is, are we going to continue to allow that or will we do something that requires a reform of that system.

I think we need a financial reform commission that would report back in 6 months on how you reconstruct this system, because we can't continue to allow the system that existed to exist going forward. We have to make changes; otherwise we will be back here in another decade with the same kind of problems.

Obviously, we have to pull this country's economy out of the hole. There is no question. That is going to be a hard lift, but I am convinced this country will do that. And it won't be so much what happens in this Chamber as it will be out in the country. I have described previously many times that this economy, in my judgment, is all about confidence. When the American people are confident in the future, they do the things that manifest that confidence. They buy a suit of clothes, they take a trip, they buy a car or buy a house. They do the things that represent their confidence in their job, their family, and their security. That is the expansion side of this economy. It is very hard for people to be confident right now in this economy and in the future. We have to do the things that will say to people: You can be confident. We will stop the hemorrhaging of job loss, we will put in place regulations to make sure this never happens again.

We have to find a way to make these reforms and changes that are significant and will give people some confidence about the future. The things we have seen over a long period of time are pretty disgusting. I have described on the floor of the Senate one of the companies—I know one should perhaps not always use company names. I try not to, but from time to time it is worthy to do so. One of the companies that got in trouble here was a bank called Wachovia; a big bank, as a matter of fact. They loaded themselves up with lots of bad assets and had to be purchased. They got in a lot of trouble. Well, you know what, this wasn't the first time. Wachovia, at the same time it was loading up with bad assets, was buying sewer systems in Germany.

Now, why would an American bank want to buy a sewer system in a city in Germany? Why? Because they did a sale-leaseback. They bought a sewer system of underground sewer pipes in a German city and leased the pipes back to the city. So there was never any change in the way the sewer was used, but it allowed an American bank to depreciate sewage pipes in a German city and save themselves hundreds of millions of dollars on their U.S. tax bill.

You know, if you have that kind of mindset going in, it is not surprising to me you are going to buy a bunch of bad assets in pursuit of maximum profits. If your pursuit of profits as an American company is to buy a sewage system in a German city, it is not surprising to me that they ran into the ditch with bad assets. It is the kind of thing that destroys any confidence people have about this system of ours.

This economic system has been a miracle. This economic engine of ours has been the envy of the world. But we simply can't continue in the direction we have seen in recent decades. It is not all one party's fault, for sure, but those who have counseled self-regulation of some of the biggest financial institutions in this country have done the American people no favor. Regulation is necessary with respect to the marketplace. That's just a fact. I know of nothing more important to allocate goods and resources than the marketplace. And I am a big advocate of the free market, but the free market needs a regulator. It needs someone who wears a striped shirt with a whistle and calls the fouls. What we have seen is some of the biggest financial institutions in this country engage in the most reckless, bizarre behavior I have ever seen. Now the American taxpayer is stuck with the bill and the economy is in the ditch, and we are trying to figure out how to pull it out.

Let me conclude by talking for a moment about the automobile industry. I want to show a chart. This chart shows what has happened to auto industry sales this month versus the same month a year ago. General Motors is down 41 percent, Ford down 31 percent, Nissan down 42 percent, Toyota down 34 percent, and Honda down 32 percent. As I indicated earlier, I am not a big fan of the automobile industry. I don't think they have been particularly innovative or on the cutting edge in some areas. I think in some areas they have made some real progress. But I think it is very difficult, when you go into this kind of economic trouble with a pretty weak balance sheet, and then face the loss of 40 percent of your product sales, to then skate through that. So the question is this: Does this industry matter to the country? I don't think you long remain a world-class economic power unless you have a world-class manufacturing capability, and a significant part of that capability in this country is in the automobile industry.

I am not someone who would support saying: Yes, let us provide money to the auto sector, such as the money that has been provided to the financial sector. This is a small fraction of what has been provided to the biggest banks in the country, with no strings. We have not seen one of those people in front of a committee being questioned about how they got here, what airplane they took to Washington, DC, who is going to lose their job, who is accountable, how much of a bonus did you get, and how much do you want for next year. None of those questions for the big financial industries. But the auto executives have been here and they have been told there is no bridge loan for you unless there are specific plans, a roadmap, of how you are going to get out of this.

The only question I ask is this: In a country where we have lost nearly 2 million jobs since January of this year, and are teetering on the edge of a cliff with our economy, if we see a bankruptcy, or a series of bankruptcies here, and we see 2 or 3 million more people on the unemployment rolls, what does it mean to this economy? How much deeper will this recession be? How much more difficult will it be to pull this country out of a steep decline? That is the question.

When Secretary Paulson came to us saying he wanted $700 billion in 3 days, I was one of those who said no, and I am glad I did because I don't think that money has been used appropriately. I don't think there is any accountability or transparency with respect to the use of that money. That has to change. We are going to decide in the coming couple of days whether we are going to do something here with a bridge loan for the auto industry, with substantial conditions. And if those conditions are appropriate, I believe there is a road to a better future for this industry. I want us to come down on the side of preserving millions of jobs. But that responsibility rests with this industry to give us the plans that provide us with some assurance and some confidence about the future.

These are extraordinarily difficult times. When I started, I talked about a debate on Wall Street once again about $10 million bonuses for a failed firm executives. Imagine, there is no culture change here when we have had the kind of financial wreckage that exists in this country, and a company that lost $11 billion last year has a CEO asking for a $10 million bonus. I ask: Have you lost all common sense? Are you totally disconnected from the world? It makes no sense to me. We have to have a deep reservoir of common sense in the way we deal with these issues if we are going to get through this, and I believe we will get through this.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I am worried about the process we have been undergoing here in the Senate in recent weeks, and I expressed that concern. I know Senator DORGAN indicated he voted against the $700 billion bailout, and I did, too, for a lot of reasons, one of which was I thought it was unthinkable that the Senate, the one body in this Government that is supposed to look at the long-term effect of a piece of legislation on America, was stampeded. I think my colleague from Alabama, Senator SHELBY, said we panicked and we threw $700 billion at one man, the Secretary of the Treasury, and basically allowed him to utilize it in any way he chose, although he told us explicitly that he desired to use it to purchase toxic assets—that is, bad mortgages—from banks so those banks would not have the economic threat of a bad mortgage on their books and could be able to lend money and this would fix the financial crisis. There was a superhighway and a big truck laying across it, and all we had to do was get this truck off and the financial markets would be open again. Within a week or 2 weeks, Secretary Paulson had changed his mind. Directly contrary to what he told us he wanted to do, he bought stock in 10 banks at hundreds of millions of dollars, the likes of which this country had never seen before, and we never talked about that one bit in the Senate.

Mr. President, $700 billion is an incredibly large sum to commit this country to. I hope we will get most of it back. I do not believe we will get all of it back. I hope we at least get some of it back. But I would note to my colleagues that 5 years of the Iraq war cost this country $500 billion. In a few days, we authorized $700 billion. But it really was not just $700 billion because they had added in there a lot of pork items. This followed appropriations for $25 billion in loans for the automobile companies that was included in the Continuing Resolution in September, which was hardly even discussed. It was put in the bill, to my knowledge, with virtually no real discussion in the Senate about how to help them transition their plants to make more energy-efficient automobiles—just tacked it in there.

But you remember the fear if we didn't pass the bill the first day they brought it up. It had to be passed before the Asian markets opened the next day. It didn't happen. We went a week or 10 days later, and the world didn't collapse. We finally passed the thing, and a lot of people have doubts whether it has helped much at all.

Regardless, I just would say that this Senate has responsibilities to the taxpayers of America. When we are talking about tens of billions of dollars or hundreds of billions of dollars—the largest expenditure of funds on any one project in the history of this Republic, $700 billion—we need to ask ourselves what this means. One of the things it means is that everybody else will want to get into the act. Before the ink was dry on that, here come the automobile companies.

Let me say briefly, Americans are going to have to think about this. After 9/11, we had a little stimulus package—it was little compared to the one we have now—but we sent out checks then. The economy was in a state of nervous exhaustion and a spasm of economic disturbance. Our deficit hit about $412 billion in 2002. I think that was the highest deficit in dollar terms this Nation had ever had. In the ensuing years, through fiscal year 2007, the deficit fell to $161 billion. Then, earlier this year, it was decided it would be a good idea to have another stimulus package, and we sent out these hundreds of dollars in checks to all Americans. It was about $100 billion, a little over $100 billion. We just sent out the checks, and that was supposed to help fix the economy. In that economic slowdown, this September 30, when the fiscal year for 2008 budget was ended, the fiscal year, the debt was $455 billion—the deficit, for one year.

What is going to happen next year? Without counting the $700 billion as a loss to the Government, experts are now telling us the deficit will exceed $455 billion. It will exceed $1,000 billion—$1 trillion. But we have to pass another $34 billion or $15 billion, or whatever the number is, right now because we have to act. We cannot ask too many questions, we cannot have too much debate because things might happen fast, and if we do not act you will be blamed for a company failing. I wish to say that somewhere along the line this Senate is the body that is supposed to ask the questions and slow this train down and actually go through the details and figure out what to do.

But I know my good friend Senator REID, who has the toughest job in Washington—they have all been meeting with the Banking Committee and the automobile industry and the White House and special interests and labor unions—all through the weekend, they say. They didn't invite me. They didn't invite a lot of other Members of this Senate. So today they plopped down a bill that is supposed to move forward with a temporary fix of $15 billion, and we are supposed to say thanks for saving us so much. One of our Members has said we have to do something in a hurry; we have 48 to 72 hours. Why 48 to 72 hours? We have plenty of time, if we want to, to work at this thing.

I know you have heard this statement, that bankruptcy is not a good way for the companies to go. Most people, when they think of bankruptcy, think of chapter 7 in bankruptcy, which is a liquidation of a company and its assets. All the people to whom that company owes money come in and line up, and the bankruptcy judge sells all the assets and parcels out what money is left—usually not very much—to those claimants.

But there is another very common bankruptcy procedure called chapter 11; it is called reorganization in chapter 11. You have heard the phrase ''They sought protection in bankruptcy.'' If you file for bankruptcy under chapter 11, your company continues to operate. Delta Airlines—I flew them yesterday—Delta Airlines in 2005 was in bankruptcy for over a year. They came out of bankruptcy leaner, having confronted many of their difficulties. They actually bought Northwest Airlines. They are doing very well today. They didn't disappear. They didn't lay off all their workers. They didn't shut the airline down, they continued to operate. The automobile companies, if they seek reorganization and protection under chapter 11, will then be in a position to confront their excessive legacy costs to deal with contracts that are pulling them down.

I think it was Mitt Romney whose father, in Michigan, was active in the automobile industry. He wrote an op-ed, and he calculated—others have used a similar figure, but I remember his—that an average American automobile is carrying a $2,000 legacy cost, the cost that is a burden on them and keeps them from being competitive in the marketplace. How do you get out of that? They say we will meet and we will talk about it and we will appoint a czar and that czar will make these companies concede these contractual provisions. But contracts are not something you have to concede. A contract is a binding document against the company or against an individual. An individual doesn't have to concede that contract, and many of them may not. Many of them will say: You guys can concede. You can cut your salaries, unions, but I am not cutting my health care benefits because I retired 10 years ago, and I still expect a health care benefit that exceeds 95 percent of the American workers' health care benefits today; I want mine kept. Who is going to make them give that up? It cannot be done voluntarily. What about a dealer and other groups, leaseholders who have claims against these companies? Why should they give up?

But in bankruptcy, the whole purpose is to create an environment in which a judge can make some decisions about what it is going to take to save the company, to save the jobs. The judge has the power to amend these contracts and to say: The only way this company is going to survive is you health care guys are going to have to give some; you salaried people are going to have to give some; you executives are going to have to give some; the dealers are going to have to give some. Otherwise, this company is going under. They have witnesses, they take testimony, and they all have the right to have their lawyer there and to present evidence. It is under oath, in detail, subject to cross-examination. Certified financial statements have to be produced. All of these things happen in bankruptcy. At the end, a bankruptcy judge, after hearing all of these arguments, will have as his or her goal the creation of a bankruptcy order that will allow the company to operate and to keep operating, keep making cars. They will not have to stop making cars during this whole process. They will continue. But if people cannot make claims against them, they can't file lawsuits. All the lawsuits against the companies, if they can't pay their debts, are stayed. It all stops. Nobody can levy against any of the property until the bankruptcy judge says so. I am amazed we are not going in that direction. For some reason, it seems that certain interests are objecting to the normal course of how a company should go about dealing with financial problems.

I also believe a responsible Senate should be taken aback about the way this has all come about. First, $25 billion was slipped in to help these companies move to more fuel-efficient automobiles—that program. But the automobile executives came back a couple of weeks ago, about 2 weeks ago, and they asked for $25 billion on top of that—$25 billion more. They say: Just take it out of the $700 billion. We are not able to access this $25 billion you have already set aside for us. We have to do certain things on environmental issues, and we are not able to access that now. So if we want to do that—and we need $25 billion. They flew in in their big jets. They didn't have any kind of coherent plan. Congress and the American people were aghast. They couldn't imagine this $25 billion.

My State of Alabama is about an average size State—4 million people; we have 7 Congressmen. As I recall, our basic budget for the State is $6 billion or so a year, and that includes education and everything else a State needs. So I would say to you, $25 billion or $34 billion is a lot of money.

These executives go home chastened, and their advisers whispered in their ears: You guys have to be humble. Don't you understand? You were too arrogant. You have to go up there—you can't fly. You have to drive up in your fuel-efficient automobile before you go back to Congress, and grovel a little bit, tell them you did something wrong. If you tell them you did something wrong and grovel and act humble, maybe you can get the money.

So what did they do? They came back and they groveled and they say they made mistakes and they are so sorry. They want $34 billion. How humble is that?

What the problem is—President-elect Obama said it: We want to make sure the money we are putting into this company is worth something. It is not supposed to be a gift, it is supposed to be a loan.

Once you start putting money in a sinking company, as any banker will tell you—they refer to it as putting good money after bad—the more money you put into a corporation, the deeper they have you. You are the one who is hooked. You are the one who is stuck now because you are in $25, $34, $50, $100. What about if we just have another $50 after this $100, and maybe we will make it. If you don't help us with another $50, you are going to lose the hundred—right? That is how these things go. That is the way bankers look at this situation, and they will not loan them the money. Bankers are not going to loan them the money because they are too worried about it. The numbers don't add up. Since the bankers will not loan them the money, they want to come to us and get us to loan them the money and take risks a reasonable banker would not take.

Somebody says: Maybe it will not be a lot more than that; maybe this will be enough. It is pretty clear that nobody says the $15 billion would be enough, what we are apparently going to be asked to look at with the bill that was just plopped down a little while ago. But at the Banking hearing last week, an independent analyst predicted that it would be $75 billion to $125 billion to avoid them going into bankruptcy.

So if they are going to go into bankruptcy, how much money do we need to help them avoid that? Well, this analyst said it would be $75 to $125 billion. That is a lot of money. Maybe they should go into bankruptcy first, and then maybe we could see what the real facts are and have a judge and a hearing and evidence taken and decisions made. Maybe tough decisions could be made and maybe the Government can help a little bit and help them come out of there and keep these companies going at a reasonable price.

So I would certainly like the competition. We certainly want these companies to be successful. But it has to be done consistent with the value and principles of America.

There is no reason for us not to assume that we are going to be asked for more and more money to keep these companies alive under the circumstances we are in today.

I would ask a couple questions then. First, what certainty do we have that they will not be asking for many times the amount of money that is being asked for today? I think we are virtually certain. We know there is more. Within the bill, I would note, is a statement that we are authorizing—it is not putting up the money yet, it is a big step toward it—we are authorizing the full replenishment of the $25 billion fuel efficiency loan program.

So the $15 billion that comes out, we are authorizing it, to put in more. The way the language is written, it is pretty clear that it goes further than that. What it does is it authorizes, on page 3, excuse me on page 11, the Secretary of Treasury—''is authorized to be appropriated to the Secretary of Treasury sums as being necessary for the purpose of replenishing the funds available to the President's designee under this section.''

So first of all it says: Yes, we take the $15 billion out of the existing loan program, but we are putting it back in immediately. The $700 billion is not reduced, neither is the $25 billion we have already appropriated. Both of those have already been authorized and appropriated. We take this money out and we put every penny of it back in this same bill. A little slight of hand there; is it not? Sounds like it to me.

Then it goes on to have other language that indicates, the way it is written, it authorizes up to another $25 billion. So authorized in this bill, I think it is fair to say, based on our reading of it a few moments ago, since it just now appeared, that we are talking about $49.5 billion being authorized for this problem. That is a lot of money.

It is somewhat different than the pitch that all we are doing is putting up $25 billion or $15 billion. And they are at least honest about this. They say the $15 billion is just a bridge loan, and that at least by March they will be back asking for more. How much more, $75, $125 billion, without once having to submit themselves to the rigors of a reorganization process that current law provides for big corporations and little ones in America under chapter 11.

Now, the legislation calls for the appointment of a car czar. That is what they are calling it. It says this about the car czar. The guy is supposed to be able to meet with these executives, many of whom have spent their lives in the automobile industry, and it is going to tell them that: This is not a good idea. This is a good idea. Yes, you can do that. No, you cannot do that. We will not give you money unless you do such and so and tell them how to run their business.

This is what it says on page 3, section 3:

> The President will designate one or more officers of the Executive Branch, [a Federal Government bureaucrat] having appropriate expertise in such areas as economic stabilization, financial aid to commerce and industry, financial restructuring, energy efficiency, and environmental protection, to carry out the purposes of this Act, including the facilitation of restructuring to achieve long-term financial viability of the domestic automobile manufacturing industry, and who shall serve at the pleasure of the President.

Which means the new President will remove the one President Bush puts in, I presume, and put another one, or certainly have the authority to do so.

> This designee shall direct the disbursement of the bridge loans or enter into commitments for lines of credit for each automobile manufacturer that has submitted a request.

Well, does it say anything about the person that is going to tell these companies, you know, we are going to tell them how to do this right? What would you tell them? Would you tell them: We are never going to make anymore big pickups, cancel all SUVs, put all your money into hybrid cars. We do not know how well they are going to sell and how people are going to continue to buy them, but you can only use the money for these kinds of things.

That is a dangerous action for a politician to do. It is odd to me that the provisions of the act call for expertise in financial aid to commerce and industry, environmental protection and energy efficiency and not one requirement that the person knows anything about the automobile industry. I know I do not know much about it. I do know this. My father ran an International Harvester, a little town dealership, hardly made a living for us. I worked in his shop. I was a parts person in his office. He only had four or five employees. They squeezed him out because he was too small, lucky to get out with his shirt.

I was in high school. I remember that vividly. Well, certain things are not financially doable. He was not able to continue to operate an International Harvester truck and tractor dealership when he could only sell to so few customers, that he could not maintain the parts and the mechanics and the equipment necessary to maintain a viable business.

Things change. He did not ask for a bailout. So the person who is supposed to be working on this is not required to have any knowledge whatsoever of the automobile business but is going to tell them how to run it, apparently. It looks like, does it not, that this would give another unelected official the ''maximum flexibility'' to appropriate taxpayers' money as they see fit.

Is this not the same mistake we made with the Secretary of the Treasury when we gave him $700 billion to parcel it out to his friends on Wall Street, however he felt like giving it.

Now, the jobs bank, which is a very perverse problem the automobile industry has. It was an agreement they made that would pay employees up to 95 percent of their pay not to work. If they have been laid off, they get 95 percent of their pay. It defers health insurance payments. Unions have said they would make concessions. That has been touted about. But they were only temporary concessions that the union has made on this. I am not sure what power a union has to tell a company that you no longer have to pay an employee who agreed by contract to pay him 95 percent of his salary. How can they abrogate that contract? You can do it in bankruptcy. You cannot do it by voluntary agreement.

So I have my doubts about how this can be fixed short of a bankruptcy. So I would ask: How can we reach an agreement that would bind the union or any other group that has contracts with the automobile industry to follow those agreements?

I ask this question, even supporters of the deal admit that a bankruptcy may still be needed in the end. So does not this multibillion dollar bailout just delay actual productive restructuring? Is it not just a delay? I am afraid it is. It absolutely is unless we put more than $15 billion in, because with $15 billion, everybody knows that is not going to be enough to keep them liquid throughout the next year. It is pretty well conceded. So are not we delaying the inevitable?

I would also add, experts agree that to be successful, everyone makes concessions, must make concessions. So what concrete steps does this legislation require of creditors, suppliers, unions or automobile dealers? It does not require any. I will answer that.

Also, the legislation calls for the development of a long-term structuring plan by the end of March. Doing so would require that various groups agree. Why do we think they will be able to accomplish this 3 months from now, when they have not been able to accomplish it in the last 3 months? How can these parties be forced to agree when they hold valid contracts for the automobile companies?

Now, as I indicated earlier, we are taking a big risk without ensuring that reform is going to occur that would make these companies viable. Everyone knows major restructuring needs to be done, that they need to emerge from this process, as I say, as Delta did from bankruptcy, chapter 11 reorganization, leaner, more competitive, keeping their employees, giving them a future, providing for their retirement and health care as they committed to do but to be able to shed unnecessary costs that had the danger of sinking the entire ship.

So we know that a banker today would not make a loan to these companies under these conditions of vague promises of improvement in the future. You think they are not telling their bankers: Oh, we are going to make progress, if you just loan us money. Companies know more than that. They want some assurance. We represent the taxpayers of America. Should we not be more concerned about the assurances too?

So we do have a regular order—I will conclude with this remark—a regular order in America. If a company gets to the point where they cannot meet their payroll, and they cannot pay all their debts, because they have a liquidity, a financial cash flow problem, the procedure is perfectly simply, you seek reorganization, you seek protection under chapter 11 in bankruptcy.

The company continues to operate, the employees continue to be paid, and, in fact, one of the highest, I believe the highest, priority of a bankruptcy judge is to see that the employees are paid. That is the first thing that comes with the limited money in a company that is in financial problems, is to pay the workers for their work, and throughout that process the company can be reorganized. Witnesses are under oath, can testify to the real facts that we in Congress have no capability of ascertaining, and they will be able to present evidence that sheds light on some of these matters. The unions would have their lawyers, the dealers would have their lawyers, the suppliers would have their lawyers and argue a case and a judge is going to have to say: Mr. Supplier, you are going to have to take 75 percent of what they owe; they cannot pay you the whole amount. We have to keep this country going. Mr. Union, you are going to have to accept less. Mr. Dealer, you are going to have to accept less. Then we will try to pay this back once we pare this company down and get it leaner and more efficient and more competitive and we are going to send it out there and we believe we can make this work.

But if you liquidate the company today, you are not going to get half of what you are owed. You are not going to get a fraction of what you are owed.

That is not the right thing. The whole motivation for a reorganization of procedure under chapter 11 would be to save the company, to save the jobs and save the industry. This Senate has no business trying to act as some sort of super bankruptcy judge in a reorganization. Our action in sending out money enables the continuation of bad behavior. It pretty closely approximates that psychological syndrome called enabler where the person who is drinking too heavily, instead of confronting the problem, the person's problem, you give them more money which allows them to continue to drink and they don't confront their problem and the problem continues to get worse.

It is time to confront the problem. Let's save this industry, and let's do so within the legal procedures the Nation has. And at some point if we can help them financially, let's do so. But we need to be sure, on behalf of the taxpayers, that we know exactly what the circumstance is, that a full examination of these companies has been undertaken. The idea of giving them billions of dollars based on a very poor statement of need is not acceptable to the people of the United States.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I was in error earlier in saying that there was a $15 billion line item in this legislation that we saw. In looking at it with my staff, basically this legislation, if it were to pass, would authorize the expenditure of $25 billion—really $24.5 billion—to the car companies. It also at the same time states that even though that money is coming out of the energy efficiency $25 billion, it also says that $25 billion will be available for expenditure in addition. So that is how I would say that as we read the legislation, it is an authorization of over $49 billion, in reality, to the automobile companies. It would take an additional appropriation for $25 billion, but that would be a single step instead of the normal legislative process. It enhances the ability for that to be expended. I think that is a correct statement. There is no reference, as has been discussed in the papers, about $15 billion. But it authorizes the full 25.

It says: There are authorized to be appropriated to the Secretary of Energy sums as may be necessary for the purpose of replenishing the funds made available to the President's designee under this section. It also says: No provision shall be construed to prohibit or limit the Secretary of Energy from processing applications for loans under the section. That is the existing $25 billion. So they still will get the loans under the $25 billion plus the other. I think in all fairness, the way we read this is a $49 billion authorization, not 25, and certainly not 15.

I yield the floor.

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

TARP

Mr. WEBB. Mr. President, I rise to talk about our foreign policy. Before doing so, I wish to point out that I have spent the last 2 hours presiding and listening to a number of very strong statements with respect to the automobile bailout and also the proposal that there be some action to limit the next tranche of $300 billion to come on the TARP program. I associate myself with the remarks of the Senator from North Dakota on those issues. We had a pretty hard vote on October 1 with respect to the TARP program. I was among the overwhelming majority of people in the Senate who voted to go ahead with this program, after the assurances of this administration and the people who had been negotiating on our behalf about the danger that the world economy was in, the prospect of a cataclysmic effect if we did not do something.

I am going to look very hard at this next tranche. We should all recall that the program that was voted to go forward was a program that was going to address the situation of toxic assets. The concern that I and many others had about giving one individual the authority in the executive branch to use these funds in a way that did not have a substantial oversight was borne out over what has happened. There is a very high bar that will go forward before I personally would vote in favor of continuing to allow the Secretary of the Treasury in an outgoing administration to be dispensing these types of funds so close to the approach of a new administration.

AUTOMOBILE INDUSTRY BAILOUT

Mr. WEBB. Mr. President, a lot of comments have been made about the automobile bailout. We are in a situation, because of the extreme effect on our entire economy over the past several months, where there is a legitimate issue of cashflow rather than the innovation or lack thereof that has gone into the automobile industry. I am favorably disposed to supporting this loan provision, which is what it is, if the right requirements are placed in the proposal. I should point out, for all of the information that has gone back and forth over the past 2 hours, the irony that Senator DORGAN mentioned, that the chief of Merrill Lynch is today arguing for a $10 million bonus for a company that had a loss of almost $12 billion last year. That is a private company. I won't pass any commercial judgment on that. But it does stand in stark contrast to what the CEO of Ford has proposed, going to $1 a year, if we can inject some cashflow into their business to attempt to get them through this period and back into a situation where they can properly manage their future.

FOREIGN POLICY DEVELOPMENT

Mr. WEBB. Mr. President, I wish to discuss another issue I have had a great deal of concern about for many years, particularly since the time I came to the Senate. That is the role of the legislative branch in the development of foreign policy and the abrogation of the legislative branch during this past administration when it comes to foreign policy. Over the past nearly 8 years, the executive branch has been a runaway train. Unfortunately, this isn't simply the Bush administration. It also is the policies that have come out of the Department of Defense and the Department of State. We have observed over the past year the negotiation of a future relationship with Iraq that has gotten almost no attention in the Congress. This is not simply a SOFA, status of forces agreement, as we have seen in dozens of other countries around the world which are implemented pursuant to our legal authority to be in those countries. This also is a strategic framework agreement, a document which defines our future relationship with Iraq, which in Iraq had to be approved by their Cabinet, by their Parliament, and now will be subject to a plebiscite and which, in the United States, simply has been approved by the signature of one individual out of the Department of State.

I was among many who began expressing my concern about this a little more than a year ago. I believe it is stark evidence of how the legislative branch, the Congress, has abrogated its constitutional responsibilities in the area of the evocation of foreign policy.

I am going to put a map up in the Chamber. It is a very busy map, but I want to take time to explain something else. I think it is very important for my fellow Senators and people over in the other House of the Congress to understand the implications of what has been going on in Afghanistan.

We have heard throughout the Presidential campaign that we should be focusing our energy away from Iraq and into Afghanistan. We have been having these types of discussions without the articulation of a clear strategy. We are moving to the point where we are soon going to have at least 60,000 American troops in Afghanistan.

When I was there as a journalist in 2004, we had about 10,000 American troops in Afghanistan. It is going to be very important, as the new administration comes in, to impress upon not only the administration but individuals in the State Department and the Department of Defense that they must come forward with a strategy that will