

# CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

## NEW DIRECTION FOR ENERGY INDEPENDENCE, NATIONAL SECURITY, AND CONSUMER PROTECTION ACT AND THE RENEWABLE ENERGY AND ENERGY CONSERVATION TAX ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3221, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3221) moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

Pending:

Dodd/Shelby amendment No. 4387, in the nature of a substitute.

Sanders amendment No. 4401 (to amendment No. 4387), to establish a national consumer credit usury rate.

Cardin/Ensign amendment No. 4421 (to amendment No. 4387), to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of a principal residence by a first-time homebuyer.

Ensign amendment No. 4419 (to amendment No. 4387), to amend the Internal Revenue Code of 1986 to provide for the limited continuation of clean energy production incentives and incentives to improve energy efficiency in order to prevent a downturn in these sectors that would result from a lapse in the tax law.

Alexander amendment No. 4429 (to amendment No. 4419), to provide a longer extension of the renewable energy production tax credit and to encourage all emerging renewable sources of electricity.

Nelson (FL)/Coleman amendment No. 4423 (to amendment No. 4387), to provide for the penalty-free use of retirement funds to provide foreclosure recovery relief for individuals with mortgages on their principal residences.

Lincoln amendment No. 4382 (to amendment No. 4387), to provide an incentive to employers to offer group legal plans that provide a benefit for real estate and foreclosure review.

Lincoln (for Snowe) amendment No. 4433 (to amendment No. 4387), to modify the increase in volume cap for housing bonds in 2008.

Landrieu amendment No. 4404 (to amendment No. 4387), to amend the provisions relating to qualified mortgage bonds to include relief for persons in areas affected by Hurricane Katrina, Rita, and Wilma.

Sanders amendment No. 4384 (to amendment No. 4387), to provide an increase in specially adapted housing benefits for disabled veterans.

Murray amendment No. 4478 (to amendment No. 4387), to increase funding for housing counseling with an offset.

Mr. DODD. What is the pending amendment, Mr. President?

The ACTING PRESIDENT pro tempore. The Murray amendment.

Mr. DODD. The Senator from Maryland wishes to speak.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized.

AMENDMENT NO. 4494 TO AMENDMENT NO. 4478

Ms. MIKULSKI. Mr. President, I call up amendment No. 4494.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes an amendment numbered 4494 to amendment No. 4478.

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

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

The amendment is as follows:

(Purpose: To make additional funds available to the Neighborhood Reinvestment Corporation to increase legal assistance available to homeowners at risk of foreclosure and assistance to community organizations working to preserve homeownership and prevent foreclosure, with an offset)

In lieu of the matter proposed to be inserted, insert the following:

SEC. \_\_\_\_\_.

Notwithstanding any other provision of this Act, the amount appropriated under section 301(a) of this Act shall be \$3,862,500,000 and the amount appropriated under section 401 of this Act shall be \$237,500,000: Provided, That, of amounts appropriated under such section 401 \$37,500,000 shall be used by the Neighborhood Reinvestment Corporation (referred to in this section as the "NRC") to (1) make grants to counseling intermediaries approved by the Department of Housing and Urban Development or the NRC to hire attorneys trained and capable of assisting homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure who have legal issues that cannot be handled by counselors already employed by such intermediaries, and (2) support NRC partnerships with State and local legal organizations and organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of that Code with demonstrated relevant legal experience in home foreclosure law, as such experience is determined by the Chief Executive Officer of NRC: Provided further, That for the purpose of the prior proviso the term "relevant experience" means experience representing homeowners in negotiations and or legal proceedings aimed at preventing or mitigating foreclosure or providing legal research and technical legal expertise to community based organizations whose goal is to reduce, prevent, or mitigate foreclosure: Provided further, That of the amounts provided for in the prior provisos the NRC shall give priority consideration to counseling intermediaries and legal organizations that (1) provide legal assistance in the 100 metropolitan statistical areas (as defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates, and (2) have the capacity to begin using the financial assistance within 90 days after receipt of the assistance.

Ms. MIKULSKI. Mr. President, I spoke earlier about the compelling need for this amendment. It would add money to NeighborWorks to be able to help them add more legal staff to help

people workout a plan to stay in their homes. This amendment adds \$37.5 million to the bill for the NeighborWorks Program to do three things: Help counseling groups hire more attorneys and paralegals to help with the foreclosure crisis, it would also provide money to legal organizations to train more attorneys and paralegals in foreclosure law, and also hire the people to train counselors and nonprofit groups in basic foreclosure law to help people do their workouts.

Many of my constituents and also constituents nationwide were victims of predatory lending practices, schemes, and scams. It is because of the complexity of dealing with these foreclosure increases that nonprofit counseling organizations need more legal help. That is why I am offering this amendment. It is to help those trying to have workouts to their foreclosure problems, while we are giving considerable bailouts to the people who caused the problem.

This is a second-degree amendment to the Murray amendment. I know it will be considered at the appropriate time.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

AMENDMENT NO. 4401, AS MODIFIED

Mr. SANDERS. Mr. President, I seek recognition to modify Sanders-Durbin amendment No. 4401, and I send the modification to the desk.

The original amendment I offered would cap all interest rates on consumer loans using a similar formula that Senator D'Amato used when he offered an amendment to cap interest rates on credit cards in 1991.

Mr. President, I call for the regular order with respect to the amendment.

The ACTING PRESIDENT pro tempore. The amendment is standing.

Mr. SANDERS. Mr. President, that amendment passed on the floor by a vote of 74 to 19. The modification I have sent to the desk would only cap interest rates on mortgages insured by the Federal Housing Administration. If this amendment were in law today, interest rates for mortgages insured by the FHA could be no higher than 14 percent, which is 8 percentage points above what the IRS charges to income tax deadbeats.

The reason I am modifying this amendment is because if cloture is invoked on this legislation, capping interest rates on all consumer loans would not be germane. But capping interest rates on mortgages insured by the FHA would be germane to the underlying bill. In the future I will have more to say about this amendment. That is where we are.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

The amendment, as modified, is as follows:

(Purpose: To establish a maximum rate of interest for loans insured under title II of the National Housing Act, and for other purposes)

On page 6, between lines 13 and 14, insert the following:

(C) MAXIMUM INSURED MORTGAGE LOAN RATE.—Notwithstanding any other provision of law, the annual percentage rate applicable to any loan that is insured under title II of the National Housing Act may not exceed by more than 8 percentage points the rate established under section 6621(a)(2) of the Internal Revenue Code of 1986.

AMENDMENT NO. 4485

Mr. SANDERS. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up Sanders amendment No. 4485.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. SHELBY. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

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

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

The legislative clerk proceeded to call the roll.

Mr. SPECTER. 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. The Senator from Pennsylvania.

AMENDMENT NO. 4392

Mr. SPECTER. Mr. President, I have sought recognition to discuss with the chairman of the committee the status of the bill and the pendency of my amendment No. 4392. This is a very important amendment which would give relief to homeowners with variable rate mortgages where there is foreclosure action, where they suddenly find the monthly payments increased unexpectedly from as much as \$1,400 to \$1,900, which they cannot afford and then their house goes into foreclosure. The borrowers do not understand that, and frequently there is misrepresentation, fraud.

This amendment differs markedly from the Durbin amendment, which was defeated, which would have had a serious impact on the availability of lenders to put up money if there is undue interference with the contractual rights.

This amendment protects the homeowners. It does little harm to the fluidity of the availability to get loans.

We are moving toward a cloture vote at 2:30 p.m. By all indications, cloture is going to be invoked, although I intend to fight it, to talk about it in the caucus which will be held in a few minutes.

On the Republican side, we talked about denying cloture in order to give Members an opportunity to have their amendments heard and voted on, and I intend to press that issue. I was prepared to vote on this amendment last Thursday, when I was taken from the floor to go to a Judiciary Committee hearing because the expectation of another Republican covering it was not

fulfilled. So I had to go over to the hearing as ranking member because we had a number of nominees in the Judiciary Committee hearing. Now I find we are moving to cloture, and there is no opportunity for a vote.

In my judgment, that is not the way this place ought to operate. I know the chairman of the committee is bound by leadership decisions, but I hope we can find a way to get a vote on this amendment. I know there are other Members who have amendments who want votes.

May I ask the chairman for a response?

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, let me say to my colleague from Pennsylvania, I appreciate the substance of the idea he has offered and, of course, the amendment by Senator DURBIN as well. I will not belabor my colleagues with the history of why it is that provision exists.

There were about 10 or 12 of us who strenuously objected to the bankruptcy reform bill. So I had problems with that bill across the board. I will not go into all that here. Let me try and frame this again.

The majority leader, back about a week or so ago, talked with the Republican leader about the possibility of us breaking this logjam that existed, where nothing could even be debated on the housing issue. So the idea was Senator SHELBY and myself were designated by our respective leaders to try to come up with a consensus package of ideas, one Republicans and Democrats, by and large, could support to come out with as a core, and from that other amendments would be offered and added along the way, and if there was consensus, we would try to add those.

It is a complicated process, but it was the only way we were going to move beyond the gridlock that was allowing no debate whatsoever.

I am in the position, obviously, of trying to accomplish what our leader is trying to achieve—and he should and I applaud him for it—of trying to get us moving on this issue. We are losing 8,000 people a day in foreclosure and the country and the economy is suffering terribly and we were in gridlock on this issue.

There are some very meritorious ideas. Those who have been in this position of managing legislation, of trying to get it through, know from time to time you are confronted with substantively agreeing with what a colleague is offering but find yourself in the position of where, to move the product along, you do not agree at that particular time to deal with the issue for a variety of reasons.

Mr. SPECTER. Mr. President, will the Senator yield for a question?

Mr. DODD. Let me finish the thought. The idea is we are watching the legislation, quite candidly, because it is a tax bill, with which Senator GRASSLEY and Senator BAUCUS are dealing. All of a sudden, we found our-

selves dealing with other issues. That is not to say this is one. This is one that could clearly relate to the subject matter. There are others dealing with energy policy and the like. It is one of the few vehicles that may move. So I understand the frustrations people may have about putting something on this bill.

The fact is, we could be here endlessly and fail to get a housing bill—albeit short of what I would like or others would like—to get us to a conference with the House to do something about this issue. We can stay the rest of this week or next week and debate a variety of amendments or try to get moving to get something accomplished.

That, I believe, is the motivation behind the majority leader, and I will let Senator SHELBY talk for the minority leader. That is the general thought. That is not to suggest these other ideas do not have merit or do not have value, including the idea promoted by the Senator from Pennsylvania. There is a reason why the leadership is responsible for trying to move product through here that may not include every idea everyone has that they would like to see added to legislation.

My hope is cloture will be invoked, that we can go forward, and there can be amendments in postcloture, and if they are germane and deal with the issues at hand, then we will try to accommodate them and, where we have consensus, add them and come to some closure and move forward.

This is not the end of the debate. This is not the end of ideas. We will have hearings this week in the committee. We have proposals we are going to bring up in our committee in markup in the next couple weeks, and we will be back on the floor with other ideas directly related to this subject matter. We are merely trying to move this subject along to achieve some of the results involved.

I admire what the Senator is trying to do. He and I have worked on a lot of issues over the years and certainly this idea. As my colleague from Alabama knows, when Senator DURBIN's amendment was offered, I told my colleagues this is one area where I am going to be supportive of that effort to deal with primary residences.

I agree with what my colleague wants to achieve, but there are other considerations we are trying to accomplish with this legislation.

I will be happy to respond to a question.

Mr. SPECTER. Mr. President, the problem with the argument by the chairman is that looking to the future, the reality is that nothing will happen. It is a long way from the representation, which I know the chairman makes in very good faith, to have a bill come out of committee and come back to the floor, in light of what has happened on the calendar. It is just that the chances are so small, it cannot remotely be relied upon.

When the chairman makes the comment about postclosure germaneness, the Senate rules on what is germane are so arcane as to be un-understandable, just un-understandable. Here we have a housing bill. What could be more material to a housing bill when foreclosures are happening across the country as we speak? The Senator from Connecticut comments about the high rate of foreclosures, and this is an amendment which seeks to stop the foreclosures, and it seeks to stop the foreclosures where the lender has provided an instrument, which is a variable rate mortgage, that the borrower does not understand; it has not been explained; there are probably misrepresentations in many cases and probably fraud in many cases. That is why this amendment opens up the court to make a determination of that.

It does not impede upon the fluidity of the market and the availability of capital, such as the Durbin amendment did, which changed the principal sum.

The legislation which is coming out of the Congress and what is happening on the administration is very heavily tilted to Wall Street and not to Main Street. Those are the expressions. It is the little guy who is not being taken care of.

I have admired what the Senator from Connecticut has had to say about that. This bill is imbalanced—a bailout of Bear Stearns but you cannot protect the borrower who has a variable rate mortgage which he did not understand, where the rates have ballooned and he is being foreclosed. That is not fair, and that is not right.

This bill is not balanced. It has a loss carried forward, which I think is a good provision, but that does not help the little guy. It has a tax credit for somebody who buys a house where the mortgage is in foreclosure, but that does not keep the homeowner in the house. I don't think the Senate ought to move ahead. This is not half a loaf, this is a crumb. This bill is a crumb.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I have been notified that at least one Member, on the side of my good friend from Pennsylvania, will object to any process going forward. So maybe he can spend some time in his conference lunch to convince some of his colleagues to be more supportive of some of these ideas.

This is not a crumb, let me say to my colleague from Pennsylvania. The idea we are modernizing the FHA is critically important. The fact we have money in here for disclosure, we have resources for counseling, the fact we are getting resources back to the States, \$4 billion to assist them as they try to deal with the problems in their local communities, the fact we are providing some tax support for people to move into foreclosed property so we don't add to the supply is critically important as well. These are some very solid ideas.

There are some provisions in the bill, I will be the first to admit, frankly, had I written this all by myself without having to deal with other people who care about some of these issues, I would not have included.

This is far more than a crumb in terms of trying to deal with this issue. More needs to be done, but the suggestion somehow that the community development block grants, counseling, disclosure, and modernization of the FHA and raising loan limits and the like are insignificant is to fail to understand what is in this bill.

More can be done, I do not disagree. But the suggestion that what we have done falls into that category is a vast exaggeration in terms of what we have been trying to accomplish, and more will be done with this issue as well.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, metaphors are meant to be extreme. We cannot quantify a crumb as opposed to a loaf of bread. But no one would say this is half a loaf. The criticism of this bill has largely come from the chairman of the committee who has said it does not go far enough.

Mr. DODD. Agreed.

Mr. SPECTER. When we have foreclosures across the country on variable rate mortgages and no action is being taken to deal with them—let me ask the Senator from Connecticut: If we consider the action which has been taken by the Fed on Bear Stearns and otherwise and we consider what this legislation is, isn't it significantly out of balance between Main Street and Wall Street?

Mr. DODD. Mr. President, I say to my colleague from Pennsylvania, what was done in the Bear Stearns-JPMorgan Chase issue, I would argue alternatives may have been available. In the final analysis, what was done that Sunday night to allow the merger of Bear Stearns with JPMorgan Chase—and this is the conclusion, I think, unanimously of our committee, having had a hearing on it—was probably the right decision, given the alternative of bankruptcy of Bear Stearns and what could have happened on that Monday had the action not been taken by the Fed, the Treasury, and the New York Fed. That is one separate issue. It is a legitimate point to say, shouldn't we do something where we can help out communities and individuals and to get this economy moving in the right direction.

I made that case for a year now, not just in the wake of Bear Stearns. We had our first meetings on this matter in March of last year trying to get something done. I am not going to take a backseat to anyone who discovered this issue in the last couple days and how much they care about it. I have been at it for 13 months, trying to get things moving in this area.

We are doing some things here. My colleagues know very well what objections there have been to doing any-

thing in this area: Let the market take care of it; the problem has been contained; no further problems. Quite the contrary. We are now down to the business of doing something about it, and I regret we are not accommodating everyone on every idea they have the moment they want it considered.

We are doing our best, Senator SHELBY and I and members of the committee, to come out with something. Four weeks ago, we couldn't do what we are doing now. We couldn't even debate the issue, I say to my colleague from Pennsylvania.

I am suggesting to the Senator from Pennsylvania this bill does a lot more than provide crumbs. It goes to the heart of very significant issues that need to be dealt with. There are other matters that need to be dealt with.

As my colleague knows, I agree with him about what bankruptcy courts can do with primary residences. I also understand the history of the seventies, why that provision was included, but I believe the times have changed, and under this fact situation, we ought to allow a bankruptcy judge to be able to modify that agreement to allow that individual to stay in their home.

I thought Senator DURBIN was right with his idea. The Senator from Pennsylvania has a more modest idea in this area and may attract a few more votes than the 36 we got with Senator DURBIN's amendment. So I am willing to support that, but the idea of trying to come to some closure is also important so we can move on, get with the House, resolve some of these matters, and come back. That is what this chairman is trying to accomplish. That is what we were doing last week when we were directed to do so by the leaders of our respective parties.

Mr. SPECTER. Mr. President, a final word. I don't disagree with what the chairman has had to say about what was done with Bear Stearns. I think we are all opposed—I certainly am opposed—to bailouts when highly sophisticated Wall Street operators are looking for big profits and their judgment is bad and they lose money. They ought not come to the taxpayers for a bailout. I do recognize the situation with Bear Stearns could have had a domino effect, which could have been devastating. So I don't disagree with that action.

I am not going to retreat from my crumb metaphor, but let the record show that on the question to the chairman as to whether there was not substantial imbalance between what has happened with the Fed and what is happening with proposals in the Congress, substantial imbalance between Wall Street and the Main Street, the chairman did not deny that, did not deal with it.

Let me close with a question, if the chairman would give favorable consideration to my amendment when he reconvenes the Banking Committee and take up this issue in the future.

Mr. DODD. Mr. President, we will be happy to consider it. It is a matter

under the proper jurisdiction of the Judiciary Committee, of which the Senator is a member, and it is not in the jurisdiction of the Banking Committee. That is one of the other issues we face. If he is unable, as a leading member of that committee, as a former chairman of that committee, to have that adopted by his committee and come forward, we certainly would consider it.

I point out we only had 36 votes for the Durbin amendment. I regret that. We only had 12 of us who opposed the bankruptcy reform bill for 6 years around here. Those matters we widely endorsed and supported, including the efforts, as my colleagues may recall, that I tried to do with credit card companies that are gouging the public on a daily basis. So I will take a back seat to no one in my determination to get far better reforms out of the bankruptcy proceedings in the country, and we will certainly do our best. But I want to be realistic with my colleague as well. Unfortunately, the Senator from Pennsylvania and I don't represent a majority in this body when it comes to that issue. The realities are that we only have about half of us who seem to agree with the two of us on this matter.

Mr. SPECTER. Mr. President, if the Judiciary Committee did report out the Durbin amendment favorably, and my amendment on a second degree was defeated along party lines, it is true there is primary jurisdiction in the Judiciary Committee. But when this matter comes up before the Banking, Housing and Urban Development Committee, these ideas could be incorporated, and I would urge my colleague to do just that.

Mr. DODD. I thank my colleague. I know there have been a number of other amendments, Mr. President, and I have just been informed that objection will be expressed on every amendment, I guess, that is being offered by a Member of the other side on this matter. So I would inform my colleagues where we stand procedurally.

We are going to have our caucus luncheons where, I am sure, this will be the subject of some discussion as we try to move forward, but, again, I thank Senator REID, the majority leader. He has a thankless job when it comes to these issues, and he asked Senator SHELBY and I to try to do our best to come up with a consensus package. Granted, now the subject matter has become of great interest to everyone, and it should, and we have tried to do just that, to put together a consensus package—not an easy thing to accomplish in this body, but we tried to do that. Again, we will try to move forward with other ideas that we can incorporate through our committee and others.

Mr. President, the Senator from Arkansas wants to be heard on this matter as well, and I thank her for her patience.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, do I need to ask unanimous consent for more time?

I ask unanimous consent to extend the time for an additional 5 minutes.

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

Mrs. LINCOLN. Mr. President, I apologize to my colleagues. I know I am taking up time now when folks are ready to leave and do other things and then come back, but I do feel strongly about this amendment and I just wanted to voice my concerns.

This is an amendment that Senator SMITH and I are offering, along with Senator SNOWE and many others—Senators KERRY, STABENOW, LEVIN, SCHUMER, KENNEDY. It is a good amendment, and it will encourage our employers to provide group legal service benefits with an emphasis on real estate counseling for their employees. This is something which group legal service plans—which have been around since the 1970s—were intended to do and exactly what the Center for Responsible Lending said should be one of our top priorities in this effort in dealing with the housing crisis. We should be encouraging and incentivizing preventive legal services.

What the center had cited increasing are those incentives for mortgage counseling legal services. It is a key policy recommendation for dealing with what we find ourselves in now—the crisis situation we are in. Borrowers need affordable and available legal review of mortgages, mortgage-related documents, and financing and loan modifications. These are complex transactions and sometimes, oftentimes, folks in States such as Arkansas and Montana have nowhere else to go. Legal services provide them that kind of proactive involvement in making sure they are making the right decisions.

We should be giving the average American homeowner access to that legal advice so he or she can feel confident in the mortgages they are getting into, so that when, if, unfortunately, God forbid, things do go wrong, they can receive advice about their rights and responsibilities and what they are dealing with in foreclosure, what options are available to them in dealing with these crises.

This is a good addition to this bill. It is positive. It is all of what we have been talking about that we need. It is consumer friendly. It is something we have used in this country. Unfortunately, section 120 of the Internal Revenue Code has lapsed. That section of the code was intended to provide the tax incentives so that our employers could set up and offer group legal service plans. Since it has lapsed, virtually no new group legal benefit plans have been created, and many employers are dropping those that do exist.

So I would encourage us all to look at what we are trying to accomplish in this bill; not to just throw things over-

board because somebody else didn't get what they wanted, but that we look at what we are trying to do for the American people. We should encourage these plans that provide our working Americans with access to legal advice. They review those mortgage documents, they assist those individuals in working with the lender to modify those loans, creating forbearance agreements and assistance in the restructuring of loans, and it provides that much needed counseling in foreclosure litigation when it is needed.

I thank Chairman DODD and the ranking member, Senator SHELBY, for their patience because I know they see all of us in these frantic modes of wanting to improve the bill and wanting to provide something that we know has been beneficial to the people we represent, and we know it can be beneficial again, and this is the appropriate place to put it.

So I just encourage that working through legal services, particularly in rural States such as mine, it is one of those places where people have to go. They do have the confidence of going to their neighbor, their country lawyer, and being able to get those services. They may not have a big, huge housing agency they can go to for the kinds of counsel they need, and these are good services that have proven themselves in years passed. Yet we find that employers cannot afford to provide them because we have lost that section in the Internal Revenue Code.

So I do thank all my colleagues who have cosponsored this amendment. We have worked on this for quite some time. I say a big thanks also to the groups that have endorsed our amendment—the American Bar Association, the American Prepaid Legal Services Institute, the International Union, UAW, AFSCME, and the laborers. So many different groups realize hard-working Americans who get caught in these circumstances need this kind of assistance.

I thank the Chair for his indulgence, and certainly my colleagues, the chairman, and the ranking member for trying to work with us. And I guess, Mr. President, and Mr. Chairman, my only option is to ask for a unanimous consent; is that correct? Is there something we can work through? Can I ask unanimous consent for regular order with respect to my amendment?

The ACTING PRESIDENT pro tempore. The amendment is not in regular order.

Mrs. LINCOLN. Mr. President, I ask my colleagues to take every consideration as they move forward in putting together this bill; that if there is any possible way we can work through making sure these individuals who really have nowhere else to go will be able to have the types of services they are used to having in years passed, and providing the incentives the employers need in order to be able to provide those services because they are clearly not providing them now. It is not something small businesses can do.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I will ask for 2 additional minutes, if I can, to respond to my colleague from Arkansas.

First of all, I agree with her totally about the value. Over the many years I have been a long-time supporter of these legal services offices and the job they do on behalf of people all across the country, particularly in rural America, and the difference they make. So I am in complete agreement with her about the value of this approach.

I would inform her that the regular order would be asking consent, after cloture has been invoked, to bring up the matter she wants to bring up. It is a tax matter and one that would require the consent of the chairman of the Finance Committee and the ranking member. So it is a matter where we are leaving it up to that jurisdiction to respond. So I want to be careful. I don't know how Senator BAUCUS feels about that. I don't want to put words in his mouth at all. I suspect he has the same sort of reaction as I do, and it is a positive one.

I am grateful for my colleague's understanding the situation we are in, trying to accommodate as many ideas as we can and to move from here to the next stage and deal with other aspects of the legislation. We couldn't have gotten here without the majority leader insisting, and really with the minority leader, to come together and allow us to bring up this package. So there are a lot of very good ideas and ones I applaud and welcome, but in the interest of trying to move forward, we are not going to be able to accommodate all of them.

I am not suggesting that will happen in this case, but I again appreciate her recognition that what we are trying to accomplish and deal with here is difficult. It is serious. As she points out, we have a lot of people suffering every single day—I have been making that case for 12 months—and we haven't been able to have a debate about this subject until last week. So to the extent that we have gotten that far along, that is some achievement.

I hope now that we are in the debate we can do some valuable and worthwhile works that will make a difference, and her suggestion contributes to that. So my hope is we will be able to accommodate this in the package as well.

Mrs. LINCOLN. I thank the chairman for his comments, and I certainly want to express this is a time-appropriate solution to the problems that exist, and I hope we will give every consideration to it.

I thank the Chair.

# RECESS

There being no objection, the Senate, at 12:42 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## NEW DIRECTION FOR ENERGY INDEPENDENCE, NATIONAL SECURITY, AND CONSUMER PROTECTION ACT AND THE RENEWABLE ENERGY AND ENERGY CONSERVATION TAX ACT OF 2007—Continued

### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 4387 to H.R. 3221.

Christopher J. Dodd, Harry Reid, Mark L. Pryor, Max Baucus, Charles E. Schumer, Patty Murray, Claire McCaskill, Patrick J. Leahy, Daniel K. Akaka, Ken Salazar, Sherrod Brown, Bryon L. Dorgan, Evan Bayh, Edward M. Kennedy, Jon Tester, John F. Kerry, Bill Nelson.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on amendment No. 4387, offered by the Senator from Connecticut, Mr. DODD, to H.R. 3221, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Colorado (Mr. ALLARD) and the Senator from North Carolina (Mrs. DOLE).

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

The yeas and nays resulted—yeas 92, nays 6, as follows:

[Rollcall Vote No. 93 Leg.]

### YEAS—92

Akaka	Coleman	Hutchison
Alexander	Collins	Inouye
Barrasso	Conrad	Isakson
Baucus	Corker	Johnson
Bayh	Cornyn	Kennedy
Bennett	Craig	Kerry
Biden	Crapo	Klobuchar
Bingaman	Dodd	Kohl
Bond	Domenici	Landrieu
Boxer	Dorgan	Lautenberg
Brown	Durbin	Leahy
Brownback	Ensign	Levin
Burr	Enzi	Lieberman
Byrd	Feingold	Lincoln
Cantwell	Feinstein	Lugar
Cardin	Graham	Martinez
Carper	Grassley	McCain
Casey	Gregg	McCaskill
Chambliss	Hagel	McConnell
Clinton	Harkin	Menendez
Cochran	Hatch	Mikulski

Murkowski	Salazar	Tester
Murray	Sanders	Thune
Nelson (FL)	Schumer	Vitter
Nelson (NE)	Sessions	Voinovich
Obama	Shelby	Warner
Pryor	Smith	Webb
Reed	Snowe	Whitehouse
Reid	Stabenow	Wicker
Roberts	Stevens	Wyden
Rockefeller	Sununu	

### NAYS—6

Bunning	DeMint	Kyl
Coburn	Inhofe	Specter

### NOT VOTING—2

Allard	Dole
--------	------

The PRESIDING OFFICER. On this vote, the yeas are 92, the nays are 6. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Who seeks recognition?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GREGG. I ask unanimous consent to set aside the pending amendment so I may offer an amendment.

Mrs. LINCOLN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GREGG. Mr. President, I am most surprised to hear my colleagues on the other side object to my request to call up an amendment, to have it called up and be heard. I thought the Senate was here to do business. I think it is reasonable as part of doing that business that we should address the largest item in this bill that involves passing a cost on to our children, which is the net operating loss proposal.

Now, the way this net operating loss works is that homebuilders—that is who it is directed toward, although anybody can take advantage of it; I do not think it is limited to the homebuilders who built all of those homes and made these massive amounts of money by offering people subprime mortgages which they then took the proceeds from over the last 4 or 5 years, which subprime mortgages have now caused this Nation to go through a massive contraction and which have created one of the largest bubbles in the history of Government, in the history of commerce. Those folks, having made a huge amount of money—I mean massive amounts of money, and, in fact, in the last quarter, they were the largest earning sector in our economy—those folks are now asking that they get an additional \$20 billion bailout, \$20 billion bailout by allowing them, now that they are losing money, to go back and take a tax deduction of their losses against the gains which they had in prior years.

This is as if you said to someone in business, say somebody running a