

The last thing a lender as a rule wants is a foreclosure because the house is vacant in the neighborhood. Senator DODD was talking about that. We do not need four or five vacancies in the neighborhood and the house run down, weeds growing instead of the lawn trimmed.

Everybody knows what that does to the value of their neighbors' property.

Housing is important. What we are trying to do—and one can see the votes we have been getting—is fashion something that will give a lot of people a better opportunity to finance their home, as well as to regulate the GSEs in a meaningful way. Most of the Members of the Senate know that.

If somebody has an amendment, they ought to come down here. I know we can debate this for 30 hours under the rules—I believe that is right—after cloture.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. SHELBY. We are that close to passing a meaningful piece of legislation. We would like to pass it. We would like the House to pick it up quickly—either agree to it, amend it, or whatever, and get it to the President. The sooner, the better.

This is not a perfect piece of legislation, but overall it has a lot of good things in it. I certainly urge my colleagues to support it.

I yield the floor.

#### RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

#### AMERICAN HOUSING RESCUE AND FORECLOSURE PREVENTION ACT OF 2008—Continued

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the Senate is not in a quorum call, I expect.

The PRESIDING OFFICER. The Senator is not in a quorum call.

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes and that 10 minutes be applied to the 30 hours postcloture.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, reserving the right to object, and I will not object, I ask unanimous consent that following Senator VITTER—he is going to speak next for approximately 5 minutes—I then be recognized to speak for up to 20 minutes.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The Senator from North Dakota is recognized.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 3183 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DORGAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise to speak on the housing bill before this body now and to speak about an important omission from the managers' amendment that is before the Senate. This is just one piece, one narrow issue, but it is an important one that will affect many folks in the housing market and throughout America. I am talking about the need to provide a transition period for the implementation of the new GSE regulatory structure in the bill.

A large part of this legislation on housing recovery is devoted to GSE regulatory reform. GSE means "government-sponsored enterprises"—regulatory reform regarding those entities. This is a huge undertaking, with wide-reaching consequences for the mortgage and housing industries and our economy generally.

This GSE reform title would combine the regulatory authority and personnel of three distinct agencies—HUD, the FHLB, and the OFHEO—to create an entirely new GSE supervisor with broad, far-reaching powers over this \$3 trillion part of our economy, the housing finance system. The effects of new regulatory powers would not be limited even to the housing industry, as big as it is. The vast global investment in GSE securities and the 8,000 member banks that obtain liquidity and other services from our Federal Home Loan Bank system would also be significantly affected.

Given the far-reaching and very significant impact of this part of the bill—this very significant consolidation of three separate agencies—I think simple common sense would dictate that implementing that sort of measured change should be done with great care and over some reasonable time period. That is why the House in its legislation recognized the need for an orderly transition. Their bill included a uniform effective date of 6 months after enactment to allow the President to begin the appointment process immediately but to give that 6-month transition to a very new regulatory structure.

Unfortunately, the bill before us in the Senate today does not include this transition period in this language.

Under the Senate substitute amendment, the powers of the new agency would be effective immediately, potentially destabilizing our housing market, causing real concerns among many in that important market.

I am very concerned about this. I think it is a significant omission, a significant problem, a significant issue. Making the powers of a new agency effective immediately, before the three

existing agencies are combined and before expert personnel can be transferred and this new agency staffed is putting the cart before the horse. At a time of great instability in the mortgage and housing markets, we should use care to preserve consumer and market confidence by ensuring a smooth transition and regulatory stability.

That is why I am strongly urging the adoption of the House approach with regard to this specific issue. It would ensure a gradual transition of no less than 6 months, allowing for careful and efficient consolidation. In our push to make the housing and mortgage markets stronger and more responsive to the American people, let's also make certain we don't break what we didn't need to fix in the first place.

I urge my colleagues in the Senate to adopt this commonsense, reasonable, balanced House approach with regard to a 6-month transition.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, is it necessary that I ask to speak as in morning business? I am taking time off my postcloture time.

The PRESIDING OFFICER. The Senator may be recognized under cloture.

Mrs. BOXER. I thank the Chair.

#### DRILLING IN PRISTINE AREAS

Mr. President, I am going to discuss, in about a 20-minute timeframe, a couple issues that are swirling around this country and the Senate, and I wish to go on record on both of them. One has to do with President Bush and Senator McCain's proposal to open pristine areas off America's coastline to offshore oil drilling as an answer, they say, to high gas prices. I am going to, hopefully, debunk that argument, and I hope I can do it convincingly.

The second area is going to be my feeling on the FISA bill, which is coming to us tomorrow—the Foreign Intelligence Surveillance Act bill.

I think I can start off where Senator DORGAN ended. He has been brilliant on the point that speculation in oil futures is what is responsible for a good deal of this horrific runup in the price of gas at the pump. We need to do something about these speculators. We have been blocked from doing that by the Republican leadership. I wish to quote Michael Greenberg, a former director of trading and markets for the Commodity Futures Trading Commission, who testified before the Senate Commerce Committee. He said:

Going after the speculators will bring down the price of crude oil to get at least a 25 percent drop in the cost of oil and a corresponding drop in the cost of gasoline.

Testifying Monday before a House Energy and Commerce Committee subcommittee, Michael Masters, of Masters Capital, said:

The price of crude oil would drop to a marginal cost of \$65 to \$75 a barrel, about half of the current \$135.

Imagine, the experts are telling us speculation is responsible for about 25

to 50 percent of the cost runup of gasoline. We are trying desperately to close that Enron loophole, to ensure that the speculators are once again regulated. There is a Bill Nelson bill, S. 3134, which would say all energy future contracts will fall within the regulatory format they were at before. So we can do this.

Where are President Bush and Senator McCain on going after the speculators? I don't hear them suggesting that. I don't see my Republican friends embracing this. They have already stopped us a couple times from doing it. If we want to do something about the price of gas, let's go after the speculators, and it will result in a very quick reduction in these outrageous price increases. We have the Strategic Petroleum Reserve which is 97 percent full. George Bush's father took some oil out of there after the first gulf war. President Clinton also took some out of there, and it had the impact of lowering the price. In other words, they are adding a supply from the Strategic Petroleum Reserve. Again, it is 97 percent full. This is the moment when we could tap it. It will make a difference, and it will get to the people, within a few short days. Thirteen days from a Presidential decision, we could have more oil on the market.

Our colleagues agreed with us to stop filling SPR, but we don't have their support for taking some out—and, of course, you would return it at another time.

Here is a big one, and I will show you this chart. Remember, the President and Senator McCain said open all the coastal areas to drilling—these pristine areas. So you have to ask yourself: Well, have we run out of places to drill offshore? The answer is no. What about onshore? No. Oil companies hold leases to nearly 68 million acres of Federal lands that are not producing oil. This land could produce 4.8 million barrels of oil each day—six times the peak production from drilling in the Arctic—and it would double total U.S. oil production. Let me say that again—68 million acres of oil leases are being held today by the oil companies. I say they should use it or lose it. Here we have people saying: Oh, give them more. That is akin to saying to a kid, whom you are trying to get to do something, I will buy you an ice cream cone if you do XYZ; but they are holding two ice cream cones in their hands now.

Let me show you what 68 million acres looks like. First, I will show you the onshore, which is about half of that. Look at the red areas on the map. This is onshore, 34.5 million acres that are unused by the oil companies. They will not drill there, but now they want more leases in the most beautiful parts of America.

This is ridiculous. It is a phony idea. It is not going to bring down gas prices 1 cent, according to the Bush Energy Department. It will have no impact—maybe by 2030. I am looking at some of the Senate pages, and they will be moms and dads by then.

Let's look at the offshore leases. Look at this. These are the offshore leases that the oil companies hold. They are not using them. Yet, still, President Bush and Senator McCain—and this is a flip-flop by Senator McCain; he has always supported protecting the beautiful areas, but they are now saying it is necessary now to sell off the family jewels.

I have to tell you, coming from a State—and the Senator in the chair does as well—where an unspoiled coastline is our ticket to a tourist industry, a fishing industry, a recreation industry, an industry in America that provides, today, \$70 billion in a coastal economy—\$70 billion and millions of jobs. In my State, it is about \$11 billion or \$12 billion and a quarter of a million jobs.

So you have to ask this question to the President and Senator McCain: We all want to help our middle class and our working poor pay for the price of gas. We want to bring down the price of gas, or we want to give them alternatives to having to fill their cars; we all want to do that. Let's give real answers. Let's not give an answer that could threaten a huge coastal economy. Our families are having a very hard time paying for gas. Imagine what happens when they lose their jobs because the coastal economy is now going to go. What good is that? Millions of jobs are at stake.

So rather than go after the speculators, rather than look at the Strategic Petroleum Reserve, rather than tell the oil companies, look, you can double production and you are not doing it, rather than ask the Federal Trade Commission to investigate supply manipulation—and I can give you story after story of supply manipulation. In my own State, we had a large company—Shell Oil—try to close down a refinery. They said it wasn't making money and there were no buyers. Untrue. We called our State attorney general. He got involved. We found out they were making money and that there were buyers. They just want to manipulate the supply. Because of our involvement, and especially the attorney general, that refinery was sold. That was 2 percent of our State's supply at the pump.

So these oil companies do not come to this with clean hands. We know it. This administration gives them a pass, saying let the speculation fly, and let the oil companies sit on these leases; forget about using the CFTC, forget about going to the World Trade Organization and lodging a complaint against OPEC because they are anticompetitive. They don't do that. They are not doing anything to extend the tax credit for the most fuel-efficient vehicles. That expired because they put a cap on it, on how many cars would have to be sold before you no longer get this tax credit. They don't do any of the things that would help us now. I don't see them saying: Let's make sure our transportation districts locally have

enough funds to add more buses and to add more ferry boats. We could be doing these things now.

What is their answer? Drill, drill, drill, drill, drill. Where? The most pristine areas of our coasts—these areas that are a gift from God. Millions of dollars have gone into setting aside marine sanctuaries. We will put it all at risk because oil companies see it as an opportunity to get more leases, increase their portfolio, and increase the assets on their books.

I have to say I hope the American people will look at this proposal the same way they looked at the gas tax holiday. When that first came up, having a gas tax holiday, JOHN MCCAIN recommended it, saying this is going to mean good news at the pump. The truth is it threatens the highway trust fund because those are the funds that go into the highway trust funds so we can take care of our highways. There was nothing in the proposal that would have led to a lowering of the price of gasoline. Other costs could have been passed right on to the consumer.

So it is amazing to me that we now have another proposal that is basically the same kind of proposal: Drill, drill, drill, and put at risk a \$70 billion coastal economy. First, the gas tax holiday put at risk the highway trust funds. This proposal puts at risk a \$70 billion coastal economy and millions of jobs that go with it, and it doesn't even account for the fact that there are so many acres—68 million acres—leased to oil companies that they have not produced.

It seems to me the American people will understand that this so-called solution to high gas prices, which the President's own Energy Department says will not save a penny, is another phony solution. It is not real. When we look at the long term, what we know is we have to pass global warming legislation. When we do that, when the private sector puts a price on carbon, we are going to see technologies erupt from America that are going to make us competitive. We will export those technologies.

We know when we take care of our environment, in the long run, our economy gets stronger. We need to invest in transportation. We need to go after OPEC. We have to go after the speculators. We know we will see, with global warming legislation, investments in cellulosic ethanol, which is going to compete with fossil fuel, and we know it is going to work.

So there are short-term answers to these gas prices, and I laid them out, and there are long-term answers, and I laid those out. I am not the only person in the Senate who has these ideas. But to put out a phony solution to a real problem does not help us and it jeopardizes a lot of jobs and a coastal economy.

I look forward to working with my colleagues on going after the speculators and doing all I need to do.

I ask unanimous consent that I be given an additional 10 minutes on my time.

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

Mrs. BOXER. Mr. President, this debate over gas prices and the long-term and short-term solutions is going to go on for a while. I look forward to addressing them, both in my committees of jurisdiction and on the floor.

#### FOREIGN INTELLIGENCE SURVEILLANCE ACT

Mr. President, we are about to get a Foreign Intelligence Surveillance Act bill that is going to come to the Senate probably tomorrow. I know that a lot of my colleagues worked very hard and very long to try to get a compromise on this bill. I have to say that there is a portion of this bill that I believe is egregious and will prevent me from voting for this bill. It is because I believe one of the most basic tenets of our freedom is justice. Looking at justice, we have to see what lies at the heart of justice. And what lies at the heart of justice is the search for the truth. If you block the truth from coming out, if you don't allow a search for the truth, you don't find justice. I worry very much about that.

Throughout our history, whenever the U.S. Government has violated the trust of the American people, we have worked to regain that trust by seeking the truth and allowing for a full examination of the abuses of Government power. We can see that in the history of America. Sometimes these egregious acts take many years to uncover. I am thinking of the Tuskegee experiments. Of course, we have to go back to the days of slavery. Go back to the Jim Crow laws. Go back to the era of the Vietnam war and the tenure of J. Edgar Hoover, who headed the FBI. We knew in that particular case that the CIA and the FBI, under J. Edgar Hoover—he headed the FBI—he engaged in spying on the political activities of American citizens. He was spying on famous, important people, such as Martin Luther King. He was spying on people at the highest levels of Government. He was also spying on the American people. Pictures were taken at rallies where people were trying to argue for an end to the Vietnam war.

In 1975, the Church Committee, which would later become the Senate Committee on Intelligence, looked into allegations of covert and illegal spying by the Federal Government on Americans. What did the committee find? The committee found that, indeed, there had been spying on Americans by the FBI and the CIA.

Here is what is interesting. What did the Congress do when they found out, in horror, that the Government was spying on the people? They passed the Foreign Intelligence Surveillance Act in 1978. It set up a new court with authority to approve electronic surveillance but only on a case-by-case basis. Since that time, we have updated FISA to reflect the changes in the threat we face in America and to reflect the new technologies.

Suddenly, in late 2005, we learned that the U.S. Government—our Government, the Bush administration—had violated the trust of the American people again when the New York Times published a story exposing a warrantless surveillance program authorized by President Bush shortly after 9/11. Since that time, Congress and the American people have been grappling with the disclosure and working, with no help from this administration, to find out what happened. We cannot find out exactly what happened, who was spied upon. Was I spied upon? Were you spied upon? How many people were spied upon? What information was gained?

In putting together the FISA bill, I do believe House and Senate members tried hard to find a balance and figure out a way to get to the truth, but I feel they have fallen short because what we will have before us when this bill comes before us is not only a bill that will deny the court the ability to make a judicial determination as to the legality of the spying program, but it will effectively guarantee immunity for the telecommunications companies that cooperated with the administration and violated the privacy of their customers.

You have to know that we had laws in place that specifically said to telephone companies: You cannot invade the privacy of your customers. What apparently happened was the Government went to them and said: We are asking you to disregard the law.

I understand the predicament of the companies, although there was one company that refused to cooperate. One company refused to cooperate. They said: No, we are not going to do it. But all the others cooperated. And now we have a situation where we know the telephone companies responded to the Government and said: OK, we will disregard that law on your say-so.

I would support granting the telecom companies indemnification—in other words, having the Government step in and be the party that has to pay the price—but this immunity provision that is in the bill blocks us from finding the truth. Remember what I said when I started: The essence of justice is to get to the truth, and we are not going to be able to get to the truth. We are not going to know exactly how this program ran. We don't know enough. The Bush administration, in my view, trampled on the Constitution, and we are not doing anything in this bill to provide accountability. Frankly, if we just left out this provision and passed the rest of the bill, we would let the courts do their job. Fine. But, no, no, we have to add this provision and essentially set up kind of a new law now to deal with this spying operation.

I don't think we can hold up the Constitution when it suits us and set it aside when it hinders us. That is not what the Constitution is.

The supporters of this compromise will say: Wait a minute, Senator

BOXER, we have a provision in there that says the telecom companies have to prove they were asked by the Government to do this activity. We know they were asked by them. That is why I don't want to punish the telecom companies.

Mr. President, I tell you what I do want to do: find out the truth. That, the truth, I want to find out. I have to believe that if we don't change Title II of this bill, we are perpetuating a coverup. I use that word advisedly because I don't think we will ever get to the truth of what happened here.

I support giving our country every tool necessary to track down the terrorists. I voted to go to war against bin Laden, and I am disgusted that he is still out there taunting us, all these days, all these years, despite George Bush. Dead or alive, we will get him. Where is he? I want to go after al-Qaida. I want to go after bin Laden. I think we do have to provide all the tools that are necessary, but we also must uphold the Constitution and the rights of our citizens.

This granting of immunity will block the courts from moving forward and learning whose privacy was violated. I want to be able to look in the eyes of my constituents in California, 38 million people, and say: I know you were in that group of people, and I feel terrible, and we are going to make it right for you; or, I know you were not involved in being caught up in this net.

These are extraordinary and difficult times. Our sons and daughters were sent to Iraq to fight for our freedoms. We have to listen to what former Justice Marshall says:

History teaches us that grave threats to liberty often come in times of urgency, when constitutional rights seem too extravagant to endure.

Our Constitution is not an extravagance. It is the centerpiece, the very essence of a democracy. It is what our sons and daughters are fighting for abroad. How could we say on the one hand to our soldiers: Go fight for our freedoms, go fight for the freedoms in our Constitution, while at home we are covering up the erosion of those freedoms?

The bill was improved upon, and I am glad Title I improved the way we go about protecting the rights of our citizens and balances it with the need to get this information. I am very pleased with that. But it seems to me, if you believe in the truth, then I don't see how you grant this type of immunity.

Again, I would substitute the Government, I would indemnify these companies. I am not interested in hurting them. But I want to get to the truth. We have a really good way to do that, which is to strip this part from the bill. We will have our rights protected then. We will have the tools we need to fight terrorism. We must do better than this.

So unless there is some miracle that happens overnight and we see some changes, I will be forced to oppose this bill. I am hoping we will have an opportunity to vote on a substitute that will

keep the rest of the bill intact but eliminate this egregious provision which really is very troubling. Anyone who lived through the days of J. Edgar Hoover and the kind of spying that went on, who understands FISA was passed to protect Americans has to be alarmed.

I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Missouri.

Mr. BOND. Mr. President, I came to the floor for another subject, but I do wish to tell my friend from California that we will have an opportunity to talk about the FISA bill that was passed. The bill we passed in the Senate with an overwhelming bipartisan majority protected civil liberties of American citizens much further than they have ever been protected even under existing criminal law, we provided more protection.

The Senate committee looked at the essence of the terrorist surveillance program for which we recommended that retroactive immune liability protection be provided for those who cooperated. They cooperated in good faith on the basis of the representation by the intelligence community that there was a Presidential directive authorized by the Attorney General. It was authorized under the clear constitutional authority of article II of the U.S. Constitution, supported by the MOFA that was passed by Congress. We determined that they were entitled to protection.

As a lawyer, I have read all of the documents. I am convinced that the bill we passed does not in any way give away any rights or protections.

Anybody who objects to the granting of this liability protection should know that we do not protect Government officials or the Government itself from lawsuits. If one wants to challenge it, file suit against the Government, file suit against Government officials, but don't ruin the business reputation of those who, in good faith, as good citizens, provided the intelligence that was needed to keep our country safe and to keep our soldiers and marines, such as my son, on the field safe from battlefield attacks. They provided that information, and we owe them better than to haul them before a court to have them exposed to the vengeance of terrorists or people who didn't like what they did. We owe our security in the United States better than to lay out in an open court proceeding all of the things our intelligence community can do to stop terrorist attacks—terrorist attacks which have not occurred in this country since September 11, 2001, which were certainly planned and underway before they were interrupted.

I can't go into any more on the floor. Any Member of the Senate is entitled to have that information in confidential SCIFs where we discuss classified information. I invite them to be briefed, and I will have much more to say about the FISA law when we get on the debate.

#### MISSOURI FLOODING

But I come to the floor today to share some observations with my colleagues, and anyone else who may happen to be watching, about the natural disaster that is going on right now in my State of Missouri.

If you turn on the television, you will probably see the flooding that is expanding over an area west of St. Louis County and St. Charles County. The Eagle Point levee breached last night, and that is only the latest example. Many other levees have also been breached.

This past weekend, I went to visit the people on the front lines. I met with State and local officials, who are prepared and are responding extremely well, given the prolonged damages, the challenges, and the extensive duration of the flood. This effort, I am proud to say, is a good testament to how bad disasters can be mitigated from becoming worse disasters when competent local and State leaders and volunteers proactively take steps at the immediate scene of the disaster.

At Winfield, MO, on Friday afternoon, right along the Mississippi River, I met with volunteers from the Salvation Army, the Red Cross, Missouri Civil Air Patrol, local law enforcement's emergency planning officials, the Missouri National Guard, and local and surrounding community volunteers. It was inspiring to see how people came together to help protect lives and property. Over 1,000 volunteers—some of my staff members joined with them—filled sandbags and built the levees. They were joining neighbors, church groups, civic groups, and other people coming in to help. By that afternoon, they said they were going to have to call and say: We don't have need for more volunteers now, so wait until there is a problem elsewhere.

As always, the National Guard acted valiantly. Their work has given businesses and families the critical time they need to get important assets out of harm's way where levees are in danger of failing. And so far—knock on wood—we have come through with minimal personal damage. People from all walks of life across Missouri and across the heartland—neighbors came in from Illinois—have pitched in to help. It has truly been an all-hands-on-deck effort, and I couldn't be more proud of them. I thanked them in person, and I come here on the floor to express my thanks to them.

Missourians and our midwestern neighbors have pulled together and, as it turns out, they may be doing too great a job of fighting the floods. Local communities have been burdened with the financial strain that comes with any disaster. Communities along the Mississippi have invested hundreds of thousands of dollars in pumps and sandbags, and untold tens of thousands of volunteer efforts in trying to protect property and lives. While these current investments made are small compared to cleanup costs, our small towns, our communities, still need Federal help.

I come here today to report, regretfully, that despite national news coverage day after day of the destruction in Missouri, FEMA has still not declared Missouri a Federal disaster area. Our families and communities along the Mississippi River are investing every resource they have to mitigate the disaster while FEMA figures out the extent of the disaster.

Not only has this flood destroyed homes, but it is currently saturating tens of thousands of acres of some of our State's most productive farmland. In addition to waiting for the waters to recede, farmers will have to remove the debris the Mississippi River leaves behind before they can plant their crops. I don't know if you have ever been to a flood scene, but it isn't just a whole bunch of land getting wet; it brings in everything you don't want to have on your land, and you can't plow it, you can't even mow it because of all the debris left.

Many have heard the saying "knee high by Fourth of July." That used to be a reference to corn height in Missouri, if you wanted a good crop. Now, in a good year, if it isn't six feet tall, then you are way behind. But this year, regrettably, in talking about the height of corn, there is a lot of land where we are going to be talking about the height of water.

USDA, FEMA, and other Government agencies, I hope and I expect, will provide emergency funds to clean up the disaster. I am pleased I have been joined by my other colleagues from the Midwest to fund these programs in supplemental appropriations bills that will ensure disaster victims receive much needed aid. We have to continue to do our part in the Senate to make sure these flood victims will be able to get their feet back on the ground. I have joined with eight of my colleagues in cosponsoring Senator GRASSLEY's disaster tax package, which will also help.

But, I repeat, none of these actions will provide any relief until Missouri gets a disaster declaration. And with everyone in Missouri doing their part—his and her part—acting responsibly and responding locally, I urge FEMA to do its part and approve the predisaster declarations they asked our State officials to make. We know there is going to be more work in finding out the total extent, but anybody who looks at the pictures on the television and who doesn't believe this is a major disaster, is saying, I am not believing my own lying eyes, because it is right there for them to see. I wish FEMA would start the mechanism rolling.

We know we have a lot of work to do, we have a lot of disaster, but we are thankful in our hearts for minimal human damage and the tremendous human outreach. It is time for the Federal Government's emergency management agency to get off the dime and move.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, first, let me say to my friend from Missouri, we do see the videos of what is happening in his State with the devastating floods, and the people of Maryland agree with the Senator's statements. We want to make sure FEMA does the right thing.

Certainly the Senator is very concerned about the circumstances, and we want to do everything we can to help the people of Missouri and the other States that have been devastated by these floods. It has obviously had a dramatic impact on many lives, and this is when our Nation needs to come together to help those who have been devastated. So the Senator will have our support, and I wanted him to know that.

Mr. President, the bill we are considering now in postcloture is the bill the House sent over to us to deal with the housing crisis. I was very encouraged with the vote earlier today, and I hope we are on the verge of passing this much needed legislation so we can work out our differences between the House and the Senate. I know we still have some procedural hurdles we have to overcome, but I hope my colleagues will act quickly so we can complete our work on this very important housing bill.

The people of Maryland, the people around the Nation, are hurting today because of what is happening in the housing market. We know it was the housing market that triggered our current economic problems. We know throughout the country there has been a large number of these so-called subprime adjustable rate mortgages that were issued over the last several years, and as a result of the declining housing market and the adjustable rate mortgages and subprime mortgages, we have record numbers of foreclosures around the Nation, including my own State of Maryland.

We are not only seeing a record number of foreclosures, we are also seeing circumstances where homeowners' equity in their property is actually negative. That means the money they owe on their mortgage is exceeding the value of their property. And with declining markets, it is becoming more and more difficult for individuals to be able to sell their homes, so we anticipate there could be continued problems of more foreclosures. That means it is very important that this Congress act.

We also know it not only affects the individual whose home is at jeopardy, but it affects the entire neighborhood. When there is a foreclosure in a community, the value of all the homes in that community declines. Local governments are also seeing a dramatic reduction in property tax revenues as a result of the decline of property values. Just at the time we need local government being more active in helping people who are going through tough economic times, they are finding it more difficult to act.

I thank Senator DODD and Senator SHELBY for bringing forward a bipartisan bill, a bill that now stands an excellent chance of being enacted, and a bill that the people of this Nation desperately need. It would do something about the housing problems in this country, so I do thank them for their patience and their work.

I see Senator DODD is on the floor, and I personally thank him for the work he has done. We are now on the verge, I hope, of passing this very badly needed legislation, the key features of which are going to help the people of Maryland and around the Nation.

This bill deals with properties that are in danger of being foreclosed by trying to prevent foreclosure. I think that is one of the things we should be doing here. The HOPE for Homeowners Act will help up to 400,000 or 500,000 homeowners on a voluntary basis get their mortgages refinanced, at no cost to the Government, using FHA, in order to make it affordable and to prevent foreclosure. That, to me, is smart. It is good for the homeowner, it is good for our economy, and it is a great investment for taxpayers because it will save them money by having less foreclosures in their communities.

The legislation also helps communities in desperate need. The CDBG funds are increased to help the communities that have been hardest hit through the numbers of foreclosures, but then, moving forward, we do something about the housing crisis in this country. We provide affordable housing funds, which we desperately need in Maryland and throughout the Nation.

We also provide more money for counseling. I say to Senator DODD that I had a meeting in Baltimore with housing counselors who are overwhelmed. They cannot handle the number of people seeking their help, so the funds provided in this legislation will help them help people who want to get counseling, but the services are not available in so many communities around the country.

The new disclosure requirements will also help people who will be moving forward because they will know what they are doing and have less chance of ending up in trouble in the future.

I also want to comment on the provisions in this legislation that ease the credit crunch. Today, it is very difficult to find affordable mortgages. Obviously, lenders are being much more cautious and it is difficult today, if you live in a minority community or you live in a modest-income neighborhood, to be able to get a mortgage. Yet banks are willing to write mortgages. In the subprime mortgage industry, there were so many people, particularly from minority communities, who were steered into subprime loans. These individuals could have had traditional mortgages and they wouldn't have been in trouble today. Now there are many people who need help in finding an affordable mortgage.

In this legislation, with the GSEs, the government-sponsored entities—

Fannie Mae, Freddie Mac, and the Federal Home Loan—and the reforms in the FHA—raising the loan limits and by changing some of the underwriting—they will provide more mortgages to modest-income families in America, so those who are in the market to buy homes and who want to be in the market to buy homes will have a much easier time finding an affordable mortgage in order to move forward. That will be good for home ownership, which is good for our neighbors, and it is going to be good for our economy.

I also thank Senator BAUCUS of the Senate Finance Committee for bringing forward some changes, some amendments to this legislation, which I think are very important. I had a meeting in Baltimore and met with the real estate community, and they told me several months ago we needed to do something to try to get first-time home buyers into the market. If the Federal Government could offer some incentives, it would help in freeing up the market, which is going to be good for our economy. At that time, I filed an amendment that would have provided a first-time homeowner's tax credit. I thank Senator BAUCUS for bringing out a similar proposal in the bill that is before us for first-time home buyers. The Federal Government will help participate in their buying a home and will offer them a credit of up to 10 percent of the cost of the home, up to \$8,000, which will ultimately be an interest-free loan that the Federal Government will invest in an individual buying their first home, for modest-income families.

To me, that makes sense. We want to encourage young people who can afford to own homes to buy homes, but they are reluctant to get into the market today because they do not know what is going to happen with the property values. When the Federal Government helps them buy that home, they are going to be more confident this is the right time to come into the market and to buy that home.

I think this provision can make a huge difference, and I appreciate the Senate Finance Committee adding it to the good work of the Banking Committee.

As I said earlier, this is an important bill. Today's vote was an important vote. We are on the path to getting it enacted. I urge my colleagues, let's work out our last differences, and let's get the votes we need to get on the floor of the Senate. Let's move this bill forward. Let's reconcile the differences with the House. Let's get it to the President. Let's get it into law so we can help the housing situation around the Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, first, I commend Senator DODD and Senator SHELBY for working so hard to bring this bill to the floor—Senator CHRIS

DODD for his wonderful leadership on the House bill.

I ask unanimous consent to speak as in morning business for 10 minutes and the time be charged postcloture.

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

#### CREATING AMERICAN JOBS

Ms. STABENOW. Mr. President, I have to say that I was quite amazed and shocked yesterday to hear the proposal that certainly flies in the face of what I believe needs to be happening for Michigan and other States that have been the backbone of the manufacturing economy in our country, the backbone of the middle class. It was a proposal to turn our way of handling American jobs and the economy into a game show. We do not need a game show. We do not need prizes down at the end of some long line for doing what needs to be done in order to create innovation and be able to focus us on the next generation of advanced battery technology or any other technologies. What we need is something thoughtful and sustained, ongoing investments to create jobs in the United States.

The last 8 years we have not seen that. We have not seen a willingness to step up and aggressively invest in advanced battery technology research or any other areas where we would be able to get the kind of jobs and production we need in the United States. I remind the Chair that, as he knows so well, just since January we have lost 325,000 good-paying jobs in America. As the distinguished Presiding Officer and I have both come to the floor to speak about good-paying American jobs, middle-class jobs for middle-class families, we continue to lose jobs.

I am very proud to be a part of a majority that is tackling that, focusing on investments, on jobs rebuilding America, on investments in the future. We passed a budget resolution a little earlier this year that included a green-collar jobs initiatives, which I was proud to offer. It had strong support from our Presiding Officer. Among things that we listed and we put into the budget resolution was advanced battery funding. This is something I know our appropriators are taking seriously. I also know my colleague, Senator LEVIN, is focusing on this in the Department of Defense authorization. I know we are serious about investing in the future now, today—putting dollars in to partner with the private sector to get us to that next generation of vehicle that is so critical.

One of the things about which I am extremely concerned is that other countries have been investing for years, and we have not seen the same kind of investments proposed year after year in the President's budget or supported by our colleagues on the other side of the aisle.

When Toyota first made the Prius, we heard a lot about it. They made this with advanced batteries made in Japan. What is more concerning is

when Ford Motor Company first made the Ford Escape Hybrid—and I am very proud they did—they looked around and couldn't find the advanced battery in America. They got it in Japan.

We cannot afford to be on a road to dependency on foreign technology as we are trying to get off of dependence on foreign oil. This needs more than proposals that feel like game show prizes down at the end of a road, a road we may not be able to get to if we are not serious as a country about what we need to do in making investments right now.

Germany has announced a great battery alliance which will invest over \$650 million in advanced lithium-ion batteries. It is specifically aimed at helping German auto companies.

South Korea, by 2010, will have spent \$700 million on advanced batteries and developing hybrid vehicles.

China has invested over \$100 million in advanced battery research and development.

Over the next 5 years, Japan will spend \$230 million on advanced battery research. It is spending \$278 million a year on hydrogen research for zero emission fuel cell vehicles.

These countries understand they need to step up to compete in a global economy and partnering with their automobile industry. We need to do no less.

We have picked one segment of the economy, the automobile industry, in which we have placed a major new mandate—an \$80 billion mandate on fuel efficiency. We need to do everything we can to help them achieve that. But they will not get there unless now—this year, next year, the year after—we are supporting and partnering on efforts for advanced battery technology research and development. Not the basic research, the basic research is being done. Now we are at a point where we need to have the technology developed to deal with issues around the size and the weight of the vehicle and the reliability of the batteries and all of the issues that bring it to the point for marketing and sales. We are very close. But our country needs to be taking this very seriously right now if we are going to have good-paying manufacturing jobs, high-tech manufacturing jobs in this country, particularly in the automobile industry.

I thank our majority leader and our chairman of the Budget Committee who placed dollars into the budget. I thank all of those who will be involved as we move forward to implement our efforts to invest in advanced battery technology research. I only wish the passion that was shown yesterday would be shown on the Senate floor, would be shown in votes for the budget resolution, would be shown in votes for appropriations, would be shown in votes and leadership speaking up as the President, year after year, has woefully underfunded his requests for advanced battery technology research.

We are past time to get this done. It should not be treated as something that is trite but as something that is very serious and very doable if we are willing to step up and partner and make the investments that need to be made, as every other country is doing.

Our companies today are not competing with other companies around the world. They are competing with other countries around the world, other countries that understand that whoever gets to advanced battery technology first will have the edge. Whoever is getting the hydrogen fuel cell technology first will have the edge. Whoever gets to that next technology will find themselves in the position to be the leaders in a global economy. We need to understand that and take that seriously. I am proud to be part of a majority that does, and we are working very hard.

We have moved the ball down the road and have more to do, but I am amazed to hear the kinds of discussions that have gone on in the last 24 hours as it relates to jobs and the economy and prizes. The prize for us is a good-paying job and a strong middle class and keeping advanced manufacturing in this country. We do that by being serious and sustained and thoughtful, by providing dollars on the front end, by making sure we understand the seriousness of the competition around the world, and having a sense of urgency about American jobs.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. NELSON of Florida. Mr. President, we are on the bill having to do with homes and foreclosures. I want to speak on the bill, and then I would ask unanimous consent that I be allowed to speak thereafter as in morning business.

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

Mr. NELSON of Florida. I will be offering an amendment which I think will be adopted or embraced, approved, cleared by both sides. It is a bipartisan amendment with Senator COLEMAN. It is to give some commonsense relief to homeowners who are trying to stay in their home while their home is under foreclosure.

If a homeowner is there and doesn't have any cash, the homeowner has fewer options of what to do if the bank is foreclosing on the home. But suppose the homeowner has a retirement fund, a private retirement fund, a 401(k) retirement fund. We have allowed, under current law, for the ability of a homeowner to take money out of that retirement fund, without paying the 10 percent penalty, to take it out of the retirement fund before retirement for



the purpose of purchasing a home. But if it is a homeowner with a home that is under foreclosure and they need cash, under current law, if their only source of cash is that retirement fund, in order to pull it out, they have to pay a 10-percent penalty. It seems it is common sense and the kind of public policy that we would want to adopt to give the homeowner the means of avoiding foreclosure by being able to tap into some of their cash in their retirement fund in order to save their home.

That is what the amendment is all about. It is simple. It waives the 10-percent penalty for folks wishing to make an early withdrawal from their retirement fund in order to avoid foreclosure.

We put some parameters, some boundaries around it so it cannot be abused. We say homeowners have to show they are participating in a government- or industry-sponsored foreclosure prevention program, such as the ones we are setting up in this bill, the HOPE NOW or the HOPE for Homeowners programs. Both of those are established in the bill before us today. That is one parameter. Another parameter is, we make this thing limited for 2 years so it will not go on and on. The foreclosure crisis is right now. We want to help homeowners stay in their homes. We limit it for 2 years.

The third parameter, we put a limit of \$25,000 on what they can take out of their retirement fund. We are going to give that homeowner, once they take the money out and they save their home, the ability to put that money back into their retirement fund within a 3-year period and not have to pay income tax on that money. A normal retirement fund, you take money out of the fund, you will have to pay income tax on it. If the purpose is to get a ready source of cash to help them stay in their home under foreclosure, we want to give them that opportunity to get it back in their retirement fund and not have to pay income tax. They have to do that—another one of those parameters—within 3 years.

The cost is fully offset. I want to give an example. We all, from our States, get horror stories. I got one from a retired Air Force sergeant who lives in Stuart, FL. He recently lost his job and, in order to stay in his home, pay his mortgage, he liquidated his 401(k) savings and paid the 10-percent penalty. The bill we are considering today gives, in another provision, a tax credit for first-time homeowners to buy their first home. But unless we do it with this provision, we are going to penalize folks such as Wayne who didn't have any source of cash except his 401(k) in order to try to do his best to save his own home using his own money.

It is true that for most people, a home is the greatest single source of wealth. It seems to me it is common sense that we would have this narrowly defined, limited exception to allow homeowners to use every tool available

within their power to stay in that home and not have it foreclosed. That is the amendment I will be offering at an appropriate time. I believe we have received clearance from Senator GRASSLEY. I am trying to get clearance from Senator BAUCUS, then the two managers of the bill, and the Banking Committee, to get clearance from them.

#### OIL FUTURES

Why has oil hit, last week, \$140 a barrel, and why is it, within the last couple days, somewhere in the high 130s? We have had testimony now from the president of Shell Oil Company. We have had testimony from an executive of ExxonMobil. The two respective testimonies say that under the normal marketplace for oil, a world marketplace of supply and demand, one of them testified oil ought to be at \$55 a barrel, not \$140, and the other one testified it ought to be somewhere between \$35 and \$65 a barrel, not \$140. So why is it at \$140?

It is true that little "jitterations" in the marketplace, any little minicrisis in any part of the world is going to send jitters into the financial marketplace. That is going to cause upward pressure. The fact is that China and India, of course, having so much consumption of oil, makes it tighter. But even so, with all that, they said it ought to be in the range of somewhere between \$35 and \$65 a barrel.

The reason it isn't is because 8 years ago, in the dead of night just before Christmas in the year 2000, the Senate, adjourning to go home, a provision was slipped into an unrelated bill that deregulated energy futures contracts. It was called the Enron loophole because it benefited Enron. We saw that a couple years thereafter in electricity contracts in California having been bid up and bid up and bid up, and that caused a great crisis that ultimately caused blackouts in California. Then, when Enron unraveled financially, we found out about that. But nothing was done to reregulate the agency, the Commodity Futures Trading Commission, the CFTC.

A lot of our colleagues here think we just reregulated them last Thursday night in the farm bill. But we only partially reregulated them when we passed the farm bill over the President's veto. What that was, was new power of the CFTC to go in on an ad hoc basis on an individual oil contract, with certain other limitations, to examine it and then determine if it wants to regulate it. I don't want to do that.

The bill I have filed—and I have Senator DORGAN, Senator OBAMA, and Senator BOXER as cosponsors—takes us back to the status quo before the Enron loophole was passed, which is the trading mechanisms attached to the United States have to be regulated if it is energy futures contracts. It is very simple. As a matter of fact, my bill is only two words. It inserts the words "or energy" in there to reregulate energy futures contracts.

What is regulating? That Commission would decide, for example, that they are going to require that if you are going to bid on these future contracts for oil, you are going to have to use that oil. It is people now who don't have any intention of using oil who go into these markets and speculate and bid up the price. It is believed that if we plugged this loophole, the price of gasoline will drop by half. That is pretty dramatic. Yesterday, the House of Representatives had testimony that the price of oil per barrel would drop by over half. That is pretty dramatic.

People are hurting. Every Senator knows that. Our people are hurting. This \$4 gas is hurting our people financially. They are not able to make financial ends meet. So if we want to do something, we have to get to where we can do something about it.

Why did the price of oil futures jump \$11 in 1 day? Do you know what the airline industry has told us? That 1-day jump of \$11 a barrel cost the airline industry \$4 billion extra. They can't survive like that. This is an entity we want to survive. They transport us about the country and the world. We can do something about it, if we have the political will.

This Senator is going to continue to pound on this issue to try to get the attention, and we are getting some heft, when DORGAN and OBAMA and BOXER all start signing up. It is a very elegant, very simple thing. You go back and plug the loophole that was unplugged back in December of 2000 and allow the Government to do what it ought to do by saying that the commodity exchanges have to regulate the trading of oil futures contracts.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Madam President, to inform my colleagues and others interested, we are making progress on various amendments that people are proposing to the housing bill. As the majority leader has indicated, the only amendments we are going to consider are housing amendments. This is a housing debate. These are the issues on which people are anxious to see resolution so we can begin to make some serious movement on the foreclosure crisis in our country.

I have a long list of potential amendments, some 44 of them. I am not sure all are going to be offered. Some, because we are in a postcloture environment, might fall. But I strongly urge those who have amendments, Democrats and Republicans, to come to the floor to meet with staff to try to resolve their amendments if at all possible, to reach some compromise on

them so they can be agreed to or in some cases clarity as to how to proceed so we can begin to organize how these amendments can be handled.

It is my intention shortly on a couple of amendments—a Democratic amendment and a Republican amendment—where we have reached agreement and compromise, to propose those, as my colleague from Alabama will, and to agree to those amendments, and then at some point my hope is to try to propose a unanimous consent proposal to accommodate those who insist on floor votes, to accommodate those with time agreements so we can have some clarity as to how the rest of this bill will unfold.

There are complicated procedural hurdles we have to weave our way through, but I think, given the overwhelming vote of 83 to 9 on cloture, there is a strong bipartisan desire to complete this housing measure. We have the opportunity to do that. I need Members or staff, whomever they designate, to come over with their amendments to give Senator SHELBY and I an opportunity to try to resolve them, to declare whether they are going to qualify for working out some agreement. That would be a great help. There are some, I know, to which we can agree. There are other matters that Members want to bring up on this bill, but I know there is going to be strong resistance—and properly so—by the majority leader to entertain ideas that are not pertaining to housing. There will be other opportunities, and there have been other opportunities, for the consideration of such ideas, but they are not going to be a part of this bill, knowing that when we go to the other body with provisions that will not be accepted by the other body, they will kill those ideas, as well as this one, the housing bill.

So for reasons that are very practical, not political, we have to stay on the theme we are dealing with, housing, foreclosures, and what we can do to put our housing situation on a far better footing and give the institutions and the regulatory bodies the necessary reforms and tools that allow them to do their jobs. That is fundamentally what is at the heart of this legislation.

The other body has completed their proposals, and we are talking with them in productive meetings, with Congressman FRANK, chairman of the House Financial Services Committee, along with JACK REED, our colleague from Rhode Island, talking about how we might resolve some of these differences on these two bills.

There are a number of efforts ongoing. Even though we have not been engaged in a public debate in this Chamber over the last several hours, there is movement.

Those who have amendments, I strongly urge them to come to the floor, bring their ideas, and see if we can't resolve how we are going to handle them, either a vote up or down to

agree to them or inform the authors that they will probably fail in a postcloture environment.

I am grateful to all of our colleagues for their support this morning on invoking cloture and getting us close to adoption of this complicated housing proposal. We had very strong votes beginning in December with the FHA modernization bill, in April with the foreclosure proposals, and most recently 19 to 2 out of our committee on this particular proposal, and, of course, the vote this morning on cloture, 83 to 9. So there is a strong indication that I take from our colleagues' actions that there is a desire to get this bill done. We have the opportunity to do that in the next few hours, a day or so, to complete this process before the Independence Day recess.

The ideas I just suggested, the proposals we are making, will help us come closer to that reality if people will take advantage of them.

Mr. BUNNING. Madam President, I want to speak directly to the folks at home right now. In the last few days, we have heard Senators say that we are in a historical crisis that requires action by the Federal Government. Supporters of this bill say it directs relief to homeowners who desperately need it, and deserve it. But they are trying to sell you on the cover of a book without letting you see what is inside. I like to know what kind of product I am buying before I open my wallet. As U.S. Senators, we have a responsibility to dig through any piece of legislation before we open up your pocketbook.

This bill is over 600 pages long. I have seen portions of it in the Banking Committee and the Finance Committee, but for the first time we are seeing the whole package here on the Senate floor. I am not buying it, and I do not think you, your children, and your grandchildren should have to either. Let me tell you why.

This bill puts you, the taxpayer, at risk. It creates a new, permanent tax on mortgage business done by Fannie Mae and Freddie Mac. That tax threatens the solvency of those institutions and permanently punishes the shareholders, many of which are institutional investors such as pension funds. The tax also reduces the amount of capital these GSEs can provide to the mortgage lending system in a moment of serious liquidity issues in the market.

Furthermore, the FHA is already projecting losses of over \$4.6 billion from existing loans, which will wipe out 22 percent of its capital reserves. The Congressional Budget Office has estimated that participants in the FHA refinancing program will re-default at a rate of 35 percent. That is more than one out of every three loans refinanced through the program. We are putting more bad loans on an already broken program that can't handle the risks it currently has. Is that a good idea? Of course not.

The author of this bill says it does not put the taxpayer on the hook. That

is just not true. First, the tax on Fannie Mae and Freddie Mac will be paid by ordinary Americans, either through higher costs for future mortgages or through lower share prices in their retirement accounts. Is that fair? No.

Second, taxpayers are on the hook for any losses beyond what is being taken from the GSEs. Supporters of this legislation say that will not happen, but even their own numbers show just how likely it is for this program to be bankrupt in a few years. The CBO score for losses only fits within the GSE tax set aside for the program because they assume less than a third of the refinancing authority is used. I think time will prove all those assumptions wrong. The real question in my mind is when will we have to bail out FHA and who is going to pay for it?

This bill not only creates a dangerous new tax, but also uses that revenue to fund housing initiatives off the books of the Federal Government. Under this bill, Fannie Mae and Freddie Mac will be assessed \$500-800 million annually by the Federal Government. At least for the first year, that money will be used to cover the inevitable losses to the FHA from a bailout program for irresponsible and undeserving lenders and borrowers. The balance of that money will pay for a permanent slush fund for housing causes that will end up benefitting partisan groups, some of whom have recently had workers indicted for voter fraud. Additionally, there is an extra \$150 million in counseling funds for these partisan groups, with even less accountability attached to those funds.

Another provision that has received little attention is \$4 billion in emergency spending to buy foreclosed homes. That is nothing more than a gift to the banks, who by definition are the ones who have foreclosed homes to sell. These funds will have the perverse effect of increasing foreclosures because banks know there is going to be a willing buyer.

And if these tax and spend policies weren't enough, this bill vastly increases an already overreaching Federal bureaucracy. It nearly doubles the size of the FHA. It assigns important decisionmaking responsibilities with regard to this program to a board created of various agency heads, not Congress. It creates a new trust fund for "affordable housing" that is permanent and mandatory, outside the normal appropriations process. It requires loan originators to participate in a National Mortgage Licensing System and Registry. If you are a fan of big government, this bill definitely delivers.

But I am only skimming the surface. Unfortunately, it gets much worse. Make no mistake—this bill is a huge bailout for our Nation's lenders. The bill's author has said this bill is going to help the everyday man. Let's take a closer look and see what you think.



The FHA program created by this bill refinances borrowers who have defaulted on their mortgages into government-insured loans. Just how much of those loans does the government insure? One hundred percent. By creating this program, this bill limits how much lenders can possibly lose through mortgage transactions. When you invest in a business venture or in the stock market does the Federal Government cap your losses? No. But when it comes to big banks this bill willingly transfers downside risk of future losses right to the FHA and you, the American taxpayer.

As I said before, CBO estimates at least one in three mortgages refinanced under this bill will default again. Therefore, we have put in motion a scenario where taxpayers take the hit rather than the lenders who made that loan to a risky buyer who bought a house he could not afford, with a mortgage he could not afford. That is a bailout for the lender any way you slice it.

Probably the most glaring flaw is that the bill offers no way to keep out irresponsible and undeserving borrowers. In fact, borrowers are not required to show that they did not lie on their original mortgage application. To qualify for the bailout, borrowers get to sign a piece of paper saying they did not lie the last time they signed for a mortgage. This bill subjects the FHA to another wave of fraud that these no-documentation loans experienced in the primary market.

Borrowers who have not demonstrated an ability to pay can get a bailout because there is no requirement that borrowers have made any timely payments on their original mortgage. There is no income cap on eligibility for the program. As written, this bill would allow homeowners with houses valued at up to \$550,000 to qualify for a bailout. In my county in Kentucky, which is one of the most expensive in the whole State, the median home price is \$270,000. So this bill would give a bailout to people with homes valued at twice the median price. The American people are compassionate and often willing to help those in need. But I do not think giving a bailout to anyone who owns such an expensive home is fair to the average American. If you recall from the economic stimulus debate, my colleagues on the other side of the aisle vehemently opposed rebates for "rich" taxpayers. Now when it comes to bailing out banks that made risky loans, all income classes of borrowers can qualify.

The list of problems goes on and on. Mortgage professionals, people who by definition should have known better, can qualify for the bailout. People who defaulted on government loans before can come back to the trough. People who drained all the equity in their homes to buy flat screen TVs and new cars can qualify. This seems to me like a surefire way to set a program up for failure at a time when the FHA is reporting record losses.

The tax division of this bill also is flawed in several respects. In particular, it includes a \$9.8 billion tax increase on small businesses that the Senate Finance Committee has never held hearings to review. This credit card reporting provision will result in a vast increase in paperwork for credit card companies and in millions of confusing and possibly misleading notices sent to the IRS and taxpayers.

Another provision that needs more work is the new limitation on the gain exclusion for the sale of a second home. This provision applies to any second property owned by the taxpayer, including an investment home. That means that taxpayers who lose their principal residence and move into a vacation home or investment property will also lose the benefit of gain exclusion. Is that the drafter's intent? This legislation has not been well thought out. That scenario should be excluded, and I have no doubt it would have been if this bill had followed the normal course through the Senate Finance Committee.

There are a few provisions in this bill which are worthwhile and needed. Most importantly, the bill creates a strong new regulator for Fannie Mae and Freddie Mac. Congress has been trying to pass such a bill for years, and it is sorely needed and worth passing on its own. But the proponents of the bailout are holding those needed reforms hostage to get their bailout.

I and many others hoped to offer amendments to try to mitigate the damage this bill could do. Unfortunately we have been blocked from doing so. On a bill of this magnitude that is irresponsible and unacceptable.

One of my amendments would have made refinancing more affordable for the vast majority of homeowners by allowing them to write off interest points paid on a home mortgage in the year paid. For no good reason, the Tax Code requires homeowners to treat points differently, depending on when they are incurred. If they are incurred in an original purchase financing, the points are deductible, just as they would be under my amendment. If they are incurred in a refinancing, the points can only be deducted ratably, over the life of the loan. The difference is so significant that it will affect the ability of millions of homeowners to afford refinancing.

The whole idea of bailing out people who took a gamble and lost is an irresponsible way to spend the taxpayers' money. I do not think the people back in Kentucky sent me to Washington to bailout speculators, Wall Street executives, and people who drained the equity in their homes to buy flat screen televisions and new cars.

This bill is simply the wrong kind of housing policy for Congress to be engaging in and is fatally flawed. Even the sponsor of the bill has admitted on the Senate floor that he is not even sure it is going to work, but he hopes it will. As the most deliberative body in

the world, I think we can do better. In fact, we owe it to our grandchildren to do better. Who is going to bail them out when FHA is left with \$300 billion in bad debt? On behalf of the people of Kentucky, this Senator is not buying this bailout bill.

Mr. BROWN. Madam President, I am pleased the Senate has turned to the Housing and Economic Recovery Act, which in large part was the responsibility of three of my colleagues, Senator DODD, Senator REED from Rhode Island, and Senator SHELBY, which will provide much needed relief to our country's homeowners and the communities they live in.

Ohio has been at the center of this storm for a number of years, and after years of neglect from the Federal Government, I am pleased that we are finally about to act. Congress needs to help and it needs to act quickly.

I understand we have an agreement that limited amendments today to those that are relevant. This agreement I hope remains in effect through the consideration of the legislation.

Ohio set a record for foreclosures last year, some 83,000 foreclosures. That is more than 1,000 a week. That is close to 200 a day. More precisely, every week about 1,500 families have lost their homes. The end is nowhere in sight. These families need our help now. They do not need political posturing on unrelated issues. We have seen too much of that. That can wait until we are done with this bill.

This fall, by some estimates, we will see the peak of the subprime mortgage resets. One research firm predicts half the subprime loans made in the fourth quarter of 2006 will fail. That is not lending; that is gambling with someone else's house.

The people who were sold these loans, and the neighborhoods they live in, must be among our highest priorities. The needs of communities are critical because this crisis has an impact far beyond the people who lose their homes. Whenever a home goes in foreclosure, the value of neighboring homes drops by about 1 percent. Crime goes up. Just when property tax revenues are plunging and the resources of a city or town are stretched to the limit, more resources are needed, and there is less ability to deliver to help people.

The Foreclosure Prevention Act which we passed in April has been incorporated in this legislation before us. It will provide close to \$4 billion in aid to communities so they can rehabilitate or in some cases knock down abandoned homes in neighborhoods.

The bill will fund more counseling to help people rework unfair loans. Yesterday in Columbus I visited a neighborhood on East 21st Street where the Columbus Housing Partnership has been so helpful in counseling many people. More than 100 people, they say, have had their homes saved because of this counseling. Two of them were with me on East 21st Street yesterday.

This is no easy task. Once upon a time you took out a loan with your local bank to buy a home, you knew people at the bank, they knew you, and the bank had a stake, as much stake in your success as you did.

Today, especially for subprime loans, that is seldom the case. The voice on the phone and the owner of the loan could be anywhere in the world. Help in navigating the mortgage maze is essential. But the problem is too big for one-by-one approaches. No matter how hard counselors and servicers work—and they are doing yeoman work all over the country, Toledo, Cleveland, Dayton, and Springfield, all over my State and all over the country. No matter how hard they work, we need a more comprehensive approach to help homeowners who could afford to stay in their homes if they had a fair mortgage.

The bill before us establishes a temporary program within the Federal Housing Administration that, on a voluntary basis, would allow lenders and borrowers to refinance their mortgages into a more affordable and stable product.

The HOPE for Homeowners Act would help perhaps half a million families. But the impact is far wider, as their neighbors and communities will be helped as well if we can avoid foreclosure for these homes in the neighborhoods.

These provisions are not a bailout for borrowers or lenders. Borrowers get no subsidy from the Federal Government. They will have to pay a mortgage on their property like everybody else. The difference is they will now have a standard 30-year fixed rate loan based on the true value of the property, rather than an exploding adjustable rate mortgage based on an inflated appraisal. Lenders, meanwhile, will have to take a loss by writing down the mortgage below the actual value of the property if they choose to participate.

In many cases it will be in their interest to do so. With bank-owned homes selling at a fraction of the outstanding mortgages on them, many will want to accept a smaller loss. If the program works as we hope, it should provide liquidity to the mortgage market so that lenders will be able to again make prudent loans.

The legislation also creates an affordable housing fund. With our stock of affordable housing both aging and shrinking, this fund will be vital to the many families who are struggling to keep a roof over their children's heads.

Families who are ready to buy a home will be helped in several ways by this legislation. First, it includes a modernization of the FHA program. What we saw over the past several years was an incredible shrinking of the market share for FHA loans as borrowers opted for riskier loans instead. The legislation would update the FHA program, increasing limits for high-cost areas and streamlining its operation. Second, home buyers will be eli-

gible for a credit of \$8,000 in the form of a 15-year interest-free loan. This credit is phased out for higher income taxpayers, and it will last 1 year. But it should provide help not only to home buyers but help to stabilize markets around the country.

The bill includes several other noticeable tax provisions. It provides an additional \$11 billion of mortgage revenue bonds, so that State housing agencies can respond to the housing crisis in a way that best suits their situation. It provides a measure of property tax relief to people who do not itemize on their taxes, an estimated 28 million taxpayers.

This legislation provides a needed overhaul to the regulation of Fannie Mae and Freddie Mac and the Federal Home Loan Banks. This is an issue that has been debated for years. We have now reached a point where we can move forward. The bill creates a new independent regulator with broad authority equivalent to that of other Federal financial regulators. The new regulator will be able to establish capital standards, management standards, and review and approve new products. It will have teeth too, as it will be able to enforce its orders through various means.

This new regulator will draw from various agencies already in place, and it will be required to undertake rule-making in several areas. I hope my colleagues will give some attention to the transition from the current regulatory regime to the new one. It has taken us years to get to this point in the legislative process. It is unlikely that a new regulator can be created to do a competent job overnight.

Let me conclude by commending Chairman DODD and Ranking Member SHELBY for bringing us to this point today, and especially to the majority leader for his work in getting there. No one in the Senate wants to help people who engaged in fraud or speculation. But hundreds of thousands of people were sold mortgages designed to fail. These people can stay in their homes with a fair mortgage but will be on the street without our assistance. They deserve our help. They deserve it now.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that notwithstanding rule XXII, the Senate now proceed to executive session to consider Calendar No. 630, the nomination of Helene White to be a United States circuit judge for the Sixth Circuit; that there be 4 hours for debate with respect

to the nominations covered under this agreement today, with the time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on confirmation of Calendar No. 630; that if the nominee is confirmed, the motion to reconsider be laid upon the table and that President Bush be immediately notified of the Senate's action; that upon confirmation of Calendar No. 630, the Senate then proceed to the consideration and vote on confirmation of the following nominations in the order listed, Calendar Nos. 631 and 632; that with respect to any vote sequence, there be 2 minutes of debate between votes and that any succeeding votes be limited to 10 minutes each; that upon confirmation, the motions to reconsider be laid upon the table, en bloc, the President be immediately notified of the Senate's action, provided that no further motions be in order, and the Senate then resume legislative session; further, that on Thursday June 26—this coming Thursday—notwithstanding rule XXII, if it is applicable at all, at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate proceed to executive session to consider Calendar Nos. 627 and 628; that they be debated concurrently for 1 hour, with the time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on confirmation of the nominations in the order listed, with 2 minutes of debate time equally divided and controlled in the usual form between the votes, and the second vote in the sequence be 10 minutes in duration; that upon confirmation, the motion to reconsider be laid upon the table, en bloc, the President be immediately notified of the Senate's action; further, that if Calendar No. 630 is not confirmed, then all aspects of this agreement are null and void, with no further intervening action or debate, and the Senate then resume legislative session; that any time consumed under this agreement count postcloture, if applicable, provided that no further motions be in order.

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

Mr. REID. Madam President, I ask unanimous consent that in the consent request I initiated, where I read the words "then all aspect of this agreement are null and void, with no further intervening action or debate," the words "no intervening action or debate," which I read into the RECORD, be deleted.

The PRESIDING OFFICER. "No further intervening action or debate" shall be deleted from the request.

Mr. REID. That is correct, Madam President.

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