and repair bridges and highways; $2 billion for mass transit systems, including important work to improve and expand bus, subway, and light-rail services; and $350 million for AMTRAK to help repair tracks and tunnels. These transportation infrastructure investments will create 384,000 jobs. The bill also provides $600 million for water and sewer grants to fix aging sewer systems; helps take burden off ratepayers and protects public health and the environment. These investments will create 24,000 jobs.

The stimulus fights price gouging and fraud on American taxpayers. The foreclosure crisis is ruining lives and ruining neighborhoods. The FBI Director told the CJS Subcommittee that mortgage fraud investigations are growing rapidly. The Reid-Byrd stimulus provides $5 million to increase the FBI's investigations of mortgage fraud, which will allow the FBI to add at least 20 agents and support staff to keep up with the rising caseload. And the stimulus includes $13.1 million for the Commodity Futures Trading Commission for increased oversight of commodity, energy, and food pricing.

As chairwoman of the Commerce, Justice, Science Subcommittee, I am pleased this bill includes important funding to make America's communities safer and stronger. This bill makes America's neighborhoods safer; safer communities are stronger communities. The bill provides $490 million for Byrne grants, which is the main Federal grant program that helps State and local law enforcement pay for police training, antidrug task forces and equipment like radios and computers. Specifically, this funding will help keep over 6,000 cops on the beat in our local communities and install almost 45,000 mobile laptops in police vehicles. The 2008 Omnibus provided just $170 million for Byrne grants because the President threatened to veto the CJS bill. The $490 million in the Reid-Byrd bill will result in a final 2008 Byrne grant amount of $660 million. This is the level in the Senate passed 2008 CJS bill. The Reid-Byrd bill also includes $500 million for the COPS hiring program, the competitive grant program that pays for new cops on the beat. This funding will put 6,500 new cops on the street in neighborhoods around the Nation. This is the first time since 2005 that the COPS hiring program would receive substantial dedicated funds to help communities hire new police. I'm so pleased the Reid-Byrd stimulus bill includes $50 million to enforce the Adam Walsh Child Protection Act. This funding will enable the U.S. Marshals to hire 150 new deputy marshals devoted to apprehending fugitive sex offenders who prey on our children.

In the area of science and innovation, I'm pleased the bill includes $250 million for NASA to help shorten the 5-year gap in time between the Space Shuttle's retirement in 2010 and the availability of our new vehicle in 2015. During this 5-year gap, the only way U.S. astronauts will be able to go into space is aboard Russian vehicles. The United States of America must remain a leader in science, innovation and space exploration. The Reid-Byrd bill helps close our gap in space access.

The Reid-Byrd bill tells those who are struggling that help is on the way and that your government is on your side. The bill makes important investments in our infrastructure and creates jobs. It makes our communities and our Nation safer and stronger. I urge my colleagues to support the Reid-Byrd stimulus bill.

I yield the floor.

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

Mr. COCHRAN. Mr. President, I appreciate the leadership permitting me to comment on the schedule for consideration of the Appropriations bills before the vote on the stimulus bill. It is unfortunate that the continuing resolution comes in the form it does to the Senate. What this bill actually contains is the fiscal year 2009 Homeland Security Appropriations bill as well as the Defense appropriations bill, and the Military Construction and Veterans Affairs appropriations bill. It also contains a continuing resolution to fund the rest of the Government through March 6, and a substantial disaster supplemental in response to floods, wildfires, and hurricanes.

There was no opportunity for the Senate to carefully review all of this bill in the time that is being allotted for its consideration this morning, there was no opportunity for most Members—whether they were members of the Appropriations Committee or otherwise—to advocate for specific requests, no forum for offering amendments, no meetings in which to argue policy or air grievances, there was no meeting of a conference committee.

A few elements of the bill have been previously considered, but only a few, by the Senate. Only the Military Construction and Veterans Affairs chapter was debated on the floor of the other body. The regular order has been thrown out the window and we have failed to give the Senate and the people we represent an opportunity to know exactly what we are about to do. Not one of the individual appropriations bills has been brought to the Senate floor. But in spite of that, we have to appropriate the money, we have to vote in support of an appropriations bill. I rest my case. I hope we can do better in the future than we have done in this cycle.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to proceed to S. 3604.

Mr. REID. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Arizona (Mr. MCCAIN), and the Senator from Alaska (Mr. STEVENS).

Further, if present and voting, the Senator from South Carolina (Mr. GRAHAM) would have voted "nay."

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

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—52

Akaka	Feingold	Nelson (NE)
Baucus	Feinstein	Pryor
Bingaman	Harkin	Reed
Boxer	Inouye	Reid
Brown	Johnson	Rockefeller
Byrd	Kerry	Salazar
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Smith
Casey	Lautenberg	Snowe
Clinton	Leahy	Specter
Coleman	Levin	Stabenow
Collins	Lieberman	Tester
Conrad	Lincoln	Webb
Dodd	Menendez	Whitehouse
Dole	Mikulski	Wyden
Dorgan	Murray	
Durbin	Nelson (FL)	

NAYS—42

Alexander	Craig	Lugar
Allard	Crapo	Martinez
Barrasso	DeMint	McCaskill
Bayh	Domenici	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Roberts
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burr	Hagel	Sununu
Chambliss	Hatch	Thune
Coburn	Hutchison	Vitter
Cochran	Inhofe	Voinovich
Corker	Isakson	Warner
Cornyn	Kyl	Wicker

NOT VOTING—6

Biden	Kennedy	Obama
Graham	McCain	Stevens

The PRESIDING OFFICER. Pursuant to previous order, the motion not having attained 60 votes in the affirmative, the motion is withdrawn.

Mr. SALAZAR. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADVANCING AMERICA'S PRIORITIES ACT—MOTION TO PROCEED

The PRESIDING OFFICER. The motion to proceed to S. 3297 is pending.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I understood we were in a position to move forward on the IP bill, plus a number of judges who are on the calendar. As Members know, in a rather extraordinary fashion, I expedited the consideration of 10 judges, notwithstanding the Thurmond rule and the late date and had gotten support from my side for not holding them over the normal time. I had understood we had an agreement to move forward on the IP bill, plus four or five of these judges this morning. That seems to be somewhat in doubt. According to the House, the IP bill has to go over now. All these matters, I suppose, we could bring them up next year, but I would rather get them done this year.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Before there is a request propounded, I think it would be useful to have a conversation. I think it ought to be possible for us to work out all of these; that is to say, judges and the IP bill. We need a little more conversation in order to do so. I am personally ready to do it right now if the chairman is willing.

Mr. LEAHY. Mr. President, I am going to momentarily suggest the absence of a quorum. We are into about a 5-minute window to work it out. I respect the rights of all Senators. The suggestion that the IP wait until next year, it is strongly supported by the Chamber of Commerce, the National Association of Manufacturers, about every Republican group there is. We had worked that out and included things that Republican Senators wanted. As a practical matter, though, if it has to wait any longer, we can assume it is dead. I assume I will still be chairman of the Judiciary Committee next year. I am perfectly happy to bring up all these judges and IP enforcement next year, if that is what my friends on the other side wish.

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. BUNNING. 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. BUNNING. Mr. President, I do not wish to interfere with the negotiations going on and the potential of an agreement being reached on the judges and the other things that are being discussed, but I do have about 15 minutes on the current situation in the markets, and I would like to speak on that. So I would be more than happy to wait for them to finish their negotiations or go ahead and speak as though in morning business, depending on the ruling of the Chair.

The PRESIDING OFFICER. Is there objection to the Senator from Kentucky proceeding for up to 15 minutes as in morning business?

Without objection, it is so ordered.

Mr. BUNNING. Thank you, Mr. President.

FEDERAL RESERVE POLICY

Mr. President, I rise to speak about the current economic situation and the bailout bill that will soon be coming to the floor of the Senate. Let me start by saying I am as concerned about what is going on in the financial markets and the economy as everyone else. I know there are extreme tensions in the credit markets, and those problems could soon have an impact on businesses and individuals who had nothing to do with the mortgage mess. However, I do not agree that the bill we have been discussing, and would probably come to the floor of the Senate, will fix those problems.

I also strongly disagree with the Senators who have come to the floor and declared that this crisis is a failure of the free markets. No. The root of the crisis is the failure of Government. It comes from a failure of regulation and, most importantly, monetary policy. In the long term, we certainly need to update our financial regulations to reflect the realities of our modern economic system. But it is just plain wrong to blame failures of our regulations and regulators on the markets.

A little history is in order. Our financial regulations are based on structures put in place during the Great Depression. Our laws simply do not reflect the current landscape of the financial markets. Once upon a time, banks may have been the only instruments that were a danger to the entire financial system, but it is now clear that other institutions are now so big and connected that we cannot ignore them in the future. Also, many of today's common financial instruments did not even exist 20 years ago, much less when our laws were written.

But our regulatory structure is not the only problem. The real fuel on the fire of this crisis has been the monetary policy of the Federal Reserve. I have been a vocal critic of the Fed for many years and have been warning that their policies would hurt Americans in the short and long run. For most of these years, I did not have much company. But I am glad many economists and commentators have recently joined me in my criticism of the Fed.

During the second half of his time as Fed Chief, former Chairman Alan Greenspan tried to micromanage the economy with monetary policy. Any economy is going to have its ups and downs, and it was foolish to try to stop that. But Chairman Greenspan did it anyway. By trying to smooth out those bumps, he overshot to the high and low sides, creating bubbles and then recessions.

I have spoken many times on the floor about the Fed policies that led to the housing bubble, but a few parts are worth repeating. Everyone remembers the dot-com bubble, which itself was partly a result of the easy money pumped into the system by the Fed in the late 1990s. Well, Chairman Greenspan set out to pop that bubble and kept raising interest rates in the face of a slowdown, driving the economy into recession.

In order to undo the problems created by his tight money, he then overshot the other way, taking interest rates as low as 1 percent for a year and below 2 percent for nearly 3 years. In turn, that easy money ignited the housing market by bringing mortgage interest rates to alltime lows. Low-cost borrowing encouraged excessive risk taking in the financial markets and led investors to pump borrowed funds into all kinds of investments, including the various mortgage lending vehicles.

In 2004, Mr. Greenspan encouraged borrowers to get adjustable rate mortgages because of all the money they would save. Four months later, he started a series of 17 interest rate increases that helped make those mortgages unaffordable for the hundreds of thousands of borrowers who listened to his advice. I warned him about that advice the following day after his speech, but that warning fell on deaf ears.

Then, in 2005, rising interest rates and housing price appreciation overcame the ability of borrowers to afford the house they wanted. To keep the party going, borrowers, lenders, investors, rating agencies, and everyone else involved lowered their standards and kept mortgages flowing to less creditworthy borrowers who were buying evermore expensive homes.

Chairman Greenspan also let investors and homeowners down by failing to police the banks and other lenders as they wrote even more risky mortgages. Regulated banks were allowed to keep most of their risky assets off their balance sheets. Even worse, he refused to use the power Congress gave the Federal Reserve in the Home Ownership and Equity Protection Act of 1994 to oversee all lenders, even those not affiliated with banks. His refusal to rein in the worst lending practices allowed banks and others, including Freddie Mac and Fannie Mae, to write the loans that are now at the center of our mortgage crisis. Chairman Ben Bernanke issued rules under that law in July of 2008—14 years later—but that was far too late to solve the problem.

Before turning to the coming legislation, I wish to mention a few more failures of Government that directly contributed to this mess. Federal regulations require the use of ratings from rating agencies that have proven to be wrong on the biggest financial failures of the last decade. The Community Reinvestment Act forced banks to make loans they would not otherwise make based on the credit history of the borrower. The Securities and Exchange Commission, under former Chairman Donaldson, failed to establish meaningful oversight and leverage restrictions for investment banks.

Fannie Mae and Freddie Mac used the implied backing of the Government to grow so large that their takeover by the Government effectively doubled the national debt. They were pushed by their executives and the Clinton administration to loosen their lending standards and write the loans that drove the companies to the point of being bailed out by the taxpayers.

Finally, the same individuals who have come to this building to ask for the latest bailout set the stage for the very panic they are using to justify the bailout. The Secretary of the Treasury and the Fed Chairman set expectations for Government intervention when they bailed out Bear Stearns in March. The markets operated all summer with the belief that the Government would step in and rescue failing firms. Then they let Lehman Brothers fail, and the markets had to adjust to the idea that Wall Street would have to take the losses for Wall Street's bad decisions, not the taxpayers. That new uncertainty could be the most significant contributing factor to why the markets panicked last week. What is more, the panic today is a result of the high expectations set last week when the Secretary and Chairman announced their plan. When resistance in Congress and the public outrage over the plan became clear, the markets walked back to the edge of panic.

BAILOUT PROPOSAL

Now I wish to talk about the bailout bill that we expect to have on the floor of the Senate soon. The Paulson proposal is an attempt to do what we so often do in Washington, DC—throw money at the problem. We cannot make bad mortgages go away. We cannot make the losses that our financial institutions are facing go away. Someone must take those losses. We can either let the people who made the bad decisions bear the consequences of their actions or we can spread the pain to others. That is exactly what Secretary Paulson proposes to do: take Wall Street's pain and spread it to Main Street, the taxpayers.

We all know it is not fair to taxpayers to pick up Wall Street's tab. But what we do not know is if this plan could even work. All we have is the word of the Treasury Secretary and the Fed Chairman. But they have been wrong throughout this whole housing mess. They have previously told us that subprime problems would not spread and the economy was strong. Now they say we are on the edge of a severe recession or maybe the second-largest depression in the history of this great Republic.

Well, I am not buying it, and neither are many of our Nation's leading economists. If some sort of Government intervention is needed to fix the mess created by the Government failure I talked about earlier, we need to get it right. Congress owes it to the American people to slow down and think this through. We need to know that whatever we do is going to fix the problem, protect the taxpayers, not reward those who made bad decisions, and make sure this does not happen again. But we cannot do that in 1 week as we are all trying to rush home. Congress needs to take this seriously and stay until we find the right solution, not just throw $700 billion at Wall Street as we walk out the door.

Now, Mr. President, before I yield the floor, I ask unanimous consent that the two letters I mentioned from economists opposing the bill, along with an article from the New York Times from 1999 about the Clinton administration pushing Fannie and Freddie into risky loans, be printed in the RECORD.

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

To the Speaker of the House of Representatives and the President pro tempore of the Senate:

As economists, we want to express to Congress our great concern for the plan proposed by Treasury Secretary Paulson to deal with the financial crisis. We are well aware ofthe difficulty of the current financial situation and we agree with the need for bold action to ensure that the financial system continues to function. We see three fatal pitfalls in the currently proposed plan:

(1) *Its fairness*. The plan is a subsidy to investors at taxpayers' expense. Investors who took risks to earn profits must also bear the losses. Not every business failure carries systemic risk. The government can ensure a well-functioning financial industry, able to make new loans to creditworthy borrowers, without bailing out particular investors and institutions whose choices proved unwise.

(2) *Its ambiguity*. Neither the mission of the new agency nor its oversight are clear. If taxpayers are to buy illiquid and opaque assets from troubled sellers, the terms, occasions, and methods of such purchases must be crystal clear ahead of time and carefully monitored afterwards.

(3) *Its long-term effects*. If the plan is enacted, its effects will be with us for a generation. For all their recent troubles, America's dynamic and innovative private capital markets have brought the nation unparalleled prosperity. Fundamentally weakening those markets in order to calm short-run disruptions is desperately short-sighted.

For these reasons we ask Congress not to rush, to hold appropriate hearings, arid to carefully consider the right course of action, and to wisely determine the future of the financial industry and the U.S. economy for years to come.

Signed:

Acemoglu, Daron (Massachussets Institute of Technology); Adler, Michael (Columbia University); Admati, Anat R. (Stanford University); Alexis, Marcus (Northwestern University); Alvarez, Fernando (University of Chicago); Andersen, Torben (Northwestern University); Baliga, Sandeep (Northwestern University); Banerjee, Abhijit V. (Massachussets Institute of Technology); Barankay, Iwan (University of Pennsylvania); Barry, Brian (University of Chicago); Bartkus, James R. (Xavier University of Louisiana); Becker, Charles M. (Duke University); Becker, Robert A. (Indiana University); Beim, David (Columbia University); Berk, Jonathan (Stanford University); Bisin, Alberto (New York University); Bittlingmayer, George (University of Kansas); Boldrin, Michele (Washington University); Brooks, Taggert J. (University of Wisconsin); Brynjolfsson, Erik (Massachusetts Institute of Technology).

Buera, Francisco J. (UCLA); Camp, Mary Elizabeth (Indiana University); Carmel, Jonathan (University of Michigan); Carroll, Christopher (Johns Hopkins University); Cassar, Gavin (University of Pennsylvania); Chaney, Thomas (University of Chicago); Chari, Varadarajan V. (University of Minnesota); Chauvin, Keith W. (University of Kansas); Chintagunta, Pradeep K. (University of Chicago); Christiano, Lawrence J. (Northwestern University); Cochrane, John (University of Chicago); Coleman, John (Duke University); Constantinides, George M. (University of Chicago); Crain, Robert (UC Berkeley); Culp, Christopher (University of Chicago); Da, Zhi (University of Notre Dame); Davis, Morris (University of Wisconsin); De Marzo Peter (Stanford University); Dubé, Jean-Pierre H. (University of Chicago); Edlin, Aaron (UC Berkeley).

Eichenbaum, Martin (Northwestern University); Ely, Jeffrey (Northwestern University); Eraslan, Hulya K. K. (Johns Hopkins University); Faulhaber, Gerald (University of Pennsylvania); Feldmann, Sven (University of Melbourne); Fernandez-Villaverde, Jesus (University of Pennsylvania); Fohlin, Caroline (Johns Hopkins University); Fox, Jeremy T. (University of Chicago); Frank, Murray Z. (University of Minnesota); Frenzen, Jonathan (University of Chicago); Fuchs, William (University of Chicago); Fudenberg, Drew (Harvard University); Gabaix, Xavier (New York University); Gao, Paul (Notre Dame University); Garicano, Luis (University of Chicago); Gerakos, Joseph J. (University of Chicago); Gibbs, Michael (University of Chicago); Glomm, Gerhard (Indiana University); Goettler, Ron (University of Chicago); Goldin, Claudia (Harvard University).

Gordon, Robert J. (Northwestern University); Greenstone, Michael (Massachusetts Institute of Technology); Guadalupe, Maria (Columbia University); Guerrieri, Veronica (University of Chicago); Hagerty, Kathleen (Northwestern University); Hamada, Robert S. (University of Chicago); Hansen, Lars (University of Chicago); Harris, Milton (University of Chicago); Hart, Oliver (Harvard University); Hazlett, Thomas W. (George Mason University); Heaton, John (University of Chicago); Heckman, James (University of Chicago—Nobel Laureate); Henderson, David R. (Hoover Institution); Henisz, Witold (University of Pennsylvania); Hertzberg, Andrew (Columbia University); Hite, Gailen (Columbia University); Hitsch, Günther J. (University of Chicago); Hodrick, Robert J. (Columbia University); Hopenhayn, Hugo (UCLA); Hurst, Erik (University of Chicago).

Imrohoroglu, Ayse (University of Southern California); Isakson, Hans (University of Northern Iowa); Israel, Ronen (London Business School); Jaffee, Dwight M. (UC Berkeley); Jagannathan, Ravi (Northwestern University); Jenter, Dirk (Stanford University); Jones, Charles M. (Columbia Business School); Kaboski, Joseph P. (Ohio State University); Kahn, Matthew (UCLA); Kaplan, Ethan (Stockholm University); Karolyi, Andrew (Ohio State University); Kashyap, Anil (University of Chicago); Keim, Donald B (University of Pennsylvania); Ketkar, Suhas L (Vanderbilt University); Kiesling, Lynne (Northwestern University); Klenow, Pete (Stanford University); Koch, Paul (University of Kansas); Kocherlakota, Narayana (University of Minnesota); Koijen, S.J., Ralph (University of Chicago); Kondo, Jiro (Northwestern University).

Korteweg, Arthur (Stanford University); Kortum, Samuel (University of Chicago); Krueger, Dirk (University of

Pennsylvania); Ledesma, Patricia (Northwestern University); Lee, Lungfei (Ohio State University); Leeper, Eric M. (Indiana University); Leuz, Christian (University of Chicago); Levine, David T. (UC Berkeley); Levine, David K. (Washington University); Levy, David M. (George Mason University); Linnainmaa, Juhani (University of Chicago); Lott, Jr., John R. (University of Maryland); Lucas, Robert (University of Chicago—Nobel Laureate); Luttmer, Erzo G.J. (University of Minnesota); Manski, Charles F. (Northwestern University); Martin, Ian (Stanford University); Mayer, Christopher (Columbia University); Mazzeo, Michael (Northwestern University); McDonald, Robert (Northwestern University); Meadow, Scott F. (University of Chicago).

Mehra, Rajnish (UC Santa Barbara); Mian, Atif (University of Chicago); Middlebrook, Art (University of Chicago); Miguel, Edward (UC Berkeley); Miravete, Eugenio J. (University of Texas at Austin); Miron, Jeffrey (Harvard University); Moretti, Enrico (UC Berkeley); Moriguchi, Chiaki (Northwestern University); Moro, Andrea (Vanderbilt University); Morse, Adair (University of Chicago); Mortensen, Dale T. (Northwestern University); Mortimer, Julie Holland (Harvard University); Muralidharan, Karthik (UC San Diego); Nanda, Dhananjay (University of Miami); Nevo, Aviv (Northwestern University); Ohanian, Lee (UCLA); Pagliari, Joseph (University of Chicago); Papanikolaou, Dimitris (Northwestern University); Parker, Jonathan (Northwestern University); Paul, Evans (Ohio State University).

Pejovich, Svetozar (Steve); (Texas A&M University); Peltzman, Sam (University of Chicago); Perri, Fabrizio (University of Minnesota); Phelan, Christopher (University of Minnesota); Piazzesi, Monika (Stanford University); Piskorski, Tomasz (Columbia University); Rampini, Adriano (Duke University); Reagan, Patricia (Ohio State University); Reich, Michael (UC Berkeley); Reuben, Ernesto (Northwestern University); Roberts, Michael (University of Pennsylvania); Robinson, David (Duke University); Rogers, Michele (Northwestern University); Rotella, Elyce (Indiana University); Ruud, Paul (Vassar College); Safford, Sean (University of Chicago); Sandbu, Martin E. (University of Pennsylvania); Sapienza, Paola (Northwestern University); Savor, Pavel (University of Pennsylvania); Scharfstein, David (Harvard University).

Seim, Katja (University of Pennsylvania); Seru, Amit (University of Chicago); Shang-Jin, Wei (Columbia University); Shimer, Robert (University of Chicago); Shore, Stephen H. (Johns Hopkins University); Siegel, Ron (Northwestern University); Smith, David C. (University of Virginia); Smith, Vernon L.—(Chapman University- Nobel Laureate); Sorensen, Morten (Columbia University); Spiegel, Matthew (Yale University); Stevenson, Betsey (University of Pennsylvania); Stokey, Nancy (University of Chicago); Strahan, Philip (Boston College); Strebulaev, Ilya (Stanford University); Sufi, Amir (University of Chicago); Tabarrok, Alex (George Mason University); Taylor, Alan M. (UC Davis); Thompson, Tim (Northwestern University); Tschoegl, Adrian E. (University of Pennsylvania); Uhlig, Harald (University of Chicago).

Ulrich, Maxim (Columbia University); Van Buskirk, Andrew (University of Chicago); Veronesi, Pietro (University of Chicago); Vissing-Jorgensen, Annette (Northwestern University); Wacziarg, Romain (UCLA); Weill, Pierre-Olivier (UCLA); Williamson, Samuel H. (Miami University); Witte, Mark (Northwestern University); Wolfers, Justin (University of Pennsylvania); Woutersen, Tiemen (Johns Hopkins University); Zingales, Luigi (University of Chicago); Zitzewitz, Eric (Dartmouth College).

We, the undersigned economists, write to strongly advise against the proposed $700 billion bailout of the financial services sector as a response to current trends in the market. Granting the Treasury broad authority to purchase troubled assets from private entities poses a significant threat to taxpayers while failing to address fundamental problems that have created a bloated, over-leveraged financial services sector.

Such a large government intervention would create changes whose effects will linger long into the future. The Treasury plan would fundamentally alter the workings of the market, transferring the burden of risk to the taxpayer. At the same time; the $700 billion proposal does not offer fundamental reforms required to avoid a repeat of the current problem. Many of the troubles in today's market are the result of past government policies (especially in the housing sector) exacerbated by loose monetary policy. Congress has been reluctant to reform the government sponsored enterprises that lie at the heart of today's troubled markets, and there is little to suggest the necessary reforms will be implemented in the wake of a bailout. Taxpayers should be wary of such an approach.

In addition to the moral hazard inherent in the proposal, the plan makes it difficult to move resources to more highly valued uses. Successful firms that may have been in a position to acquire troubled firms would no longer have a market advantage allowing them to do so; instead, entities that were struggling would now be shored up and competing on equal footing with their more efficient competitors.

Although it is clear that the financial sector has entered turbulent times, it is by no means evident that providing the U.S. Treasury with $700 billion to purchase troubled assets will resolve the crisis. It is clear, however, that the federal government will be facing substantially higher deficits and taxpayers will be exposed to a significant new burden just as the looming crisis in entitlement spending appears on the horizon.

For these reasons, we find the proposed $700 billion bailout an improper response to the current financial crisis.

Sincerely,

Dick Armey, FreedomWorks Foundation; Wayne Brough, FreedomWorks Foundation; Alan C. Stockman, University of Rochester; Ambassador Alberto Piedra, Institute of World Politics; Arthur A. Fleisher III, Denver Metropolitan State College of Denver; Bryan Caplan, George Mason University; Burt Abrams, University of Delaware; Cecil E. Bohanan, Ball State University; Charles N. Steele, Hillsdale College; Charles W. Baird, California State University East Bay; D. Eric Shansberg, Indiana University Southeast.

Donald L. Alexander, Western Michigan University; E.S. Savas, Baruch College/CUNY; Ed Stringham, Trinity College; Erik Gartzke, University of California, San Diego; Frank Falero, California State University, Bakersfield; George Selgin, West Virginia University; Howard Baetjer, Jr., Towson University; Ivan Pongracic, Jr., Hillsdale College; James L. Huffman, Clark University; James McClure, Ball State University; Joe Pomykala, Towson University.

John P. Cochran, Metropolitan State College of Denver; Kishore G. Kulkarni, Metropolitan State College of Denver; Lawrence H. White, University of Missouri-St. Louis; M. Northrup Buechner, St. John's University; Melvin Hinich, University of Texas, Austin; Nikolai G. Wenzel, Hillsdale College; Norman Bailey, Institute of World Politics; Paul Evans, Ohio State University; Randall Holcombe, Florida State University; Richard W. Rahn, Institute for Global Economic Growth; Robert Heidt, Indiana University School of Law, Bloomington.

Rodolfo Gonzalez, San Jose State University; Roy Cordato, John Locke Foundation; Samuel Bostaph, University of Dallas; Scott Bradford, Brigham Young University; Soheila Fardanesh, Towson University; Stephen Shmanske, California State University, East Bay; T. Norman Van Cott, Ball State University; Walter Block, Loyola University New Orleans; William Barnett, II, Loyola University New Orleans; William F. Shughart, II, University of Mississippi; William Niskanen, Cato Institute.

[From the New York Times, Sept. 30,1999]

FANNIE MAE EASES CREDIT TO AID MORTGAGE LENDING

(By Steven A. Holmes)

In a move that could help increase home ownership rates among minorities and low-income consumers, the Fannie Mae Corporation is easing the credit requirements on loans that it will purchase from banks and other lenders.

The action, which will begin as a pilot program involving 24 banks in 15 markets—including the New York metropolitan region—will encourage those banks to extend home mortgages to individuals whose credit is generally not good enough to qualify for conventional loans. Fannie Mae officials say they hope to make it a nationwide program by next spring.

Fannie Mae, the nation's biggest underwriter of home mortgages, has been under increasing pressure from the Clinton Administration to expand mortgage loans among low and moderate income people and felt pressure from stock holders to maintain its phenomenal growth in profits.

In addition, banks, thrift institutions and mortgage companies have been pressing Fannie Mae to help them make more loans to so-called subprime borrowers. These borrowers whose incomes, credit ratings and savings are not good enough to qualify for conventional loans, can only get loans from finance companies that charge much higher interest rates—anywhere from three to four percentage points higher than conventional loans.

''Fannie Mae has expanded home ownership for millions of families in the 1990's by reducing down payment requirements,'' said Franklin D. Raines, Fannie Mae's chairman and chief executive officer. ''Yet there remain too many borrowers whose credit is just a notch below what our underwriting has required who have been relegated to paying significantly higher mortgage rates in the so-called subprime market.''

Demographic information on these borrowers is sketchy. But at least one study indicates that 18 percent of the loans in the subprime market went to black borrowers, compared to 5 per cent of loans in the conventional loan market.

In moving, even tentatively, into this new area of lending, Fannie Mae is taking on significantly more risk, which may not pose any difficulties during flush economic times. But the government-subsidized corporation may run into trouble in an economic downturn, prompting a government rescue similar to that of the savings and loan industry in the 1980's.

''From the perspective of many people, including me, this is another thrift industry growing up around us,'' said Peter Wallison a resident fellow at the American Enterprise Institute. ''If they fail, the government will have to step up and bail them out the way it stepped up and bailed out the thrift industry.''

Under Fannie Mae's pilot program, consumers who qualify can secure a mortgage with an interest rate one percentage point above that of a conventional, 30-year fixed rate mortgage of less than $240,000—a rate that currently averages about 7.76 per cent. If the borrower makes his or her monthly payments on time for two years, the one percentage point premium is dropped.

Fannie Mae, the nation's biggest underwriter of home mortgages, does not lend money directly to consumers. Instead, it purchases loans that banks make on what is called the secondary market. By expanding the type of loans that it will buy, Fannie Mae is hoping to spur banks to make more loans to people with less-than-stellar credit ratings.

Fannie Mae officials stress that the new mortgages will be extended to all potential borrowers who can qualify for a mortgage. But they add that the move is intended in part to increase the number of minority and low income home owners who tend to have worse credit ratings than non-Hispanic whites.

Home ownership has, in fact, exploded among minorities during the economic boom of the 1990's. The number of mortgages extended to Hispanic applicants jumped by 87.2 per cent from 1993 to 1998, according to Harvard University's Joint Center for Housing Studies. During that same period the number of African Americans who got mortgages to buy a home increased by 71.9 per cent and the number of Asian Americans by 46.3 per cent.

In contrast, the number of non-Hispanic whites who received loans for homes increased by 31.2 per cent.

Despite these gains, home ownership rates for minorities continue to lag behind non-Hispanic whites, in part because blacks and Hispanics in particular tend to have on average worse credit ratings.

In July, the Department of Housing and Urban Development proposed that by the year 2001,50 percent of Fannie Mae's and Freddie Mac's portfolio be made up of loans to low and moderate-income borrowers. Last year, 44 percent of the loans Fannie Mae purchased were from these groups.

The change in policy also comes at the same time that HUD is investigating allegations of racial discrimination in the automated underwriting systems used by Fannie Mae and Freddie Mac to determine the credit-worthiness of credit applicants.

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

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I believe I am next in line to make remarks as in morning business, and I wish to do so.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. FEINSTEIN. Thank you very much.

FINANCIAL CRISIS

Mrs. FEINSTEIN. Mr. President, to date I have received from Californians more than 50,000 calls and letters, the great bulk of them in opposition to any form of meeting this crisis with financial help from the Federal Government. I wanted to come to the floor to very simply state how I see this and some of the principles that I hope will be forthcoming in this draft. Before I do so, I wish to pay particular commendation to Senator DODD, Senator SCHUMER, Senator BENNETT, and others who have been working so hard on this issue. I have tried to keep in touch—I am not a negotiator; I am not on the committee—but California is the biggest State, the largest economic engine, and people are really concerned.

We face the most significant economic crisis in 75 years right now. Swift and comprehensive action is crucial to the overall health of our economy. None of us wants to be in this position, and there are no good options here. Nobody likes the idea of spending massive sums of Government money to rescue major corporations from their bad financial decisions. But no one also should be fooled into thinking this problem only belongs to the banks and that it is a good idea to let them fail. The pain felt by Wall Street one day is felt there, and then 2, 3, 4 weeks down the pike, it is felt on Main Street.

The turbulence in our financial sector has already resulted in thousands of layoffs in the banking and finance sectors, and that number will skyrocket if there is a full collapse. The shock waves of failure will extend far beyond the banking and finance sectors. A shrinking pool of credit would affect the home loans, credit card limits, auto loans, and insurance policies of average Americans. I am receiving calls from people who tell me they want to buy a house, but they can't get the credit or the mortgage to do so. Why? Because that market of credit is drying up more rapidly one day after the other. It would have a major impact on State and local governments which would lose tens of millions of dollars, if not hundreds of millions of dollars.

Hurricane Ike shut down refineries on the gulf coast 2 weeks ago, and now, today, people are waiting hours in lines for gasoline in the South. Similarly, the collapse of the financial sector would have severe consequences for Americans all across the economic spectrum: for the person who owns the grocery store, the laundry, the bank, the insurance company. Then, if the worst happens, layoffs. And even more than that, somebody shows up for work and finds their business has closed because the owner of that business can't get credit to buy the goods he hopes to sell that week or that month. Wages and employment rates have already fallen even as the cost of basic necessities has skyrocketed. Our Nation is facing the highest unemployment rate in 5 years, at 6.1 percent. Over 605,000 jobs have been lost nationwide this year. My own State of California, a state of 38 million people, has the third highest unemployment rate in the Nation at 7.7 percent. That is 1.4 million people out of work today. One and a half million people—that is bigger than some States. We have 1.5 million people out of work, and one-half million have had their unemployment insurance expire and have nothing today.

Congress is faced with a situation where we have to act and we have to do two things. We have to provide some reform in the system of regulation and oversight that is supposed to protect our economy. We also have to find a permanent and effective solution to keep liquidity and credit functioning so that markets can recover and make profit. The situation, I believe, is grave, and timely, prudent action is needed.

Just last night, the sixth largest bank in America—Washington Mutual—was seized by government regulators and most of its assets will be sold to JPMorgan Chase. This follows on the heels of bankruptcies and takeovers of Bear Stearns, Lehman Brothers, AIG, Fannie Mae, and Freddie Mac. If nothing is done, the crisis will continue to spread and one by one the dominos will fall.

Now, this isn't just about Wall Street. Because we are this credit society, the financial troubles facing major economic institutions will ricochet throughout this Nation and affect everyone. So I believe the need for action is clear. But that doesn't mean Congress should simply be a rubberstamp for an unprecedented and unbridled program.

My constituents by the thousands have made their views clear. I believe they are responding to the original 3-page proposal by the Secretary of the Treasury. It is clear by now that that 3-page proposal is a nonstarter. It is dead on arrival and that is good. Secretary Paulson's proposal asked Congress to write a $700 billion check to an economic czar who would have been empowered to spend it without any administrative oversight, legal requirements, or legislative review. Decisions made by the Treasury Secretary would be nonreviewable by any court or agency, and the fate of our entire economy would be committed to the sole discretion of one man alone—the man we know today, and the man whom we don't know after January.

Additionally, the lack of governance or oversight in this plan was matched by the lack of a requirement for regular reports to Congress. This proposal stipulated that the economic czar, newly created, would report to Congress after the first three months with reports once every 6 months after that. This was untenable. Six months is an eternity when you are spending billions a week. The Treasury Secretary asked Congress to approve this massive program without delay or interference. It is hard to think of any other time in our history when Congress has been asked for so much money and so much power to be concentrated in the hands of one person. It is a nonstarter.

Yesterday, shortly before we met for the Democratic Policy Committee lunch, we were told there had been a bipartisan agreement on principles of a possible solution, and many of us rejoiced. We know that our Members, both Republican and Democrat, have been working hard to try to produce something that was positive. Then, all of a sudden, it changed. One Presidential candidate parachuted into town which proved to be enormously destructive to the process. Now, negotiations are back on the table, and as I say, we have just received a draft bill of certain principles.

I would like to outline quickly those principles that I think are important. First is a phase-in. No one wants to put $700 billion immediately at the discretion of one person or even a group of a very few people, no matter how bright, how skilled, how informed they might be on banking or finance principles. The funding should come in phases and Congress should have the opportunity to make its voice heard if the program isn't working or needs to be adjusted.

The second point: Oversight, accountability, and governance. The Treasury Secretary should not and must not have unbridled authority to determine winners and losers, essentially choosing which struggling financial institution will survive and which will not. The original plan placed all authority in the hands of this one man, and this is why I say it was DOA—dead on arrival—at the Congress. We must assure that controls are in place to watch taxpayer dollars and make sure they are well-spent fixing the problem, and that oversight by a governance committee and the Banking Committees are strong, and that they give the best opportunity for the American people to recover their investment and, yes, even eventually make a profit from that investment. That can be done and it has been done in the past.

I believe that frequent reporting to Congress is critical. Transparency, sunlight on this, is critical. So Congress should receive regular, timely briefings, perhaps weekly for the first quarter, on a program of this magnitude. A proposal should mandate frequent reporting and the public should be ensured of transparency to the maximum extent possible.

I also believe that within the first quarter—and this, to me, is key—a comprehensive legislative proposal for reform must be put forward. We must reform those speculative practices that impact price function of markets. We must deal with the unregulated practices that have furthered this crisis. Look. I represent a State that was cost $40 billion in the Enron episode during 1999 and 2000 by speculation, by manipulation, and by fraud. There still is inadequate regulation of energy commodities sold on the futures market. And that is just one point in all of this. We must prevent these things from happening. The only way to do it is to improve the transparency of all markets. No hidden deals. Swaps, in my view, should be ended. The London loophole should be ended.

We have to outline rules for increasing regulation of the mortgage-backed securities market, along with comprehensive oversight of the mortgage industry and lending practices for both prime and subprime lending.

Senator MARTINEZ of Florida and I had a part in the earlier housing bill, which included our legislation entitled the SAFE Mortgage Licensing Act. We found that the market was rife with fraud. We found there was one company that hired hairdressers and others who sold mortgages in their spare time. We found there were unscrupulous mortgage brokers out there unlicensed, preying upon people, walking off with tens of thousands of dollars of cash. This has to end. It has to be controlled. It has to be regulated.

So I believe the crisis of 2008 stems from the failure of Federal regulators to rein in this Wild West mentality of those Wall Street executives who led those firms and who thought that nothing was out of bounds. Every quick scheme was worth the time, and worth a try. Congress cannot ignore this as the root cause of the crisis. It was inherent in the subprime marketplace, and it has now spread to the prime mortgage marketplace.

It is also critical that accurate assessments of the value of these illiquid mortgage-related assets be performed to limit the taxpayers' exposure to risk and structure purchases to ensure the greatest possible return on investment.

Taxpayer money must be shielded at all costs from risk to the greatest extent possible.

Reciprocity is not a bad concept if you can carry it out. The Government must not simply act as a repository for risky investments that have gone bad. An economic rescue effort that serves taxpayers well must allow them to benefit from the potential profits of rescued entities. So a model—and it may well be in these new principles—must be developed to ensure the taxpayers are not only the first paid back but have an opportunity to share in future profits through warrants and/or stocks.

As to executive compensation limits, simply put, Californians are frosted by the absence of controls on executive compensation. Virtually all of the 50,000 phone calls and letters mentioned this one way or another. There must be limits. I am told that the reason the Treasury Secretary does not want limits on executive compensation is because he believes that an executive then will not bring his company in to partake in any program that is set up. Here is my response to that: We can put that executive on his boat, take that boat out in the ocean, and set it on fire. If that is how he feels, that is what should happen, or his company doesn't come in. But to say that the Federal Government is going to be responsible for tens of millions of dollars of executive salaries, golden parachutes, whether they are a matter of contract right or not, is not acceptable to the average person whose taxpayer dollars are used in this bailout. That is just fact.

The one proposal that was made by one of the Presidential candidates that I agree with is that there should be a limit of $400,000 on executive compensation. If they don't like it, too bad, don't participate in the program. As I have talked with people on Wall Street and otherwise, they don't believe it is true that an executive, if his pay is tailored down, will not bring a company in that needs help. I hope that is true. I believe there should be precise limits set on executive pay.

Finally, as to tangible benefits for Main Street in the form of mortgage relief, there have been more than 500,000 foreclosures in my home State of California so far this year. In the second quarter of this year, foreclosures were up 300 percent over the second quarter of 2007. More than 800,000 are predicted before this year is over.

I have a city in California where 1 out of every 25 homes is in foreclosure. This is new housing in subdivisions. As you look at it, you will see garage doors kicked in. You will see houses vandalized. You will see the grass and grounds dry. You will see the street sprinkled with ''For Sale'' signs, and nobody buys because the market has become so depressed.

This crisis has roots in the subprime housing boom that went bust, and it would be unconscionable for us to simply bail out Wall Street while leaving these homeowners to fend for themselves.

Everything I have been told, and I have talked to people in this business, here is what they tell me: It is more cost-effective to renegotiate a subprime loan and keep a family in a house than it is to foreclose and run the risks of what happens to that home on a depressed market as credit is drying up, as vandals loot it, as landscaping dries up, as more homes in the area become foreclosed upon; the way to go is to renegotiate these mortgages with the exiting homeowner wherever possible. I feel very strongly that should be the case.

I don't know what I or any of us will do if we authorize this kind of expenditure and we find down the pike in my State that the rest of the year, 800,000 to 1 million Americans are being thrown out of their homes despite this form of rescue effort. Think of what it means, Mr. President, in your State. You vote for this, any other Senator votes for it, and these foreclosures continue to take place and individual families continue to be thrown out of their homes. It is not a tenable situation.

I hope, if anybody is listening at all, that in the negotiating team, they will make a real effort to mandate in some way that subprime foreclosures be renegotiated, that families, wherever possible, who have an ability to pay, have that ability to pay met with a renegotiated loan. I have done this now in cases with families who were taken advantage of. We called the CEO of the bank, and the bank has seen that the loan was renegotiated, in one case in Los Angeles down to 2 percent. That is better than foreclosing and running the uncertainty of the sale of the asset in a very depressed housing market.

These are my thoughts. Again, it is easy to come to the floor and give your thoughts. It is much more difficult to sit at that negotiating table.

I once again thank those Senators on both sides of the aisle who really understand the nature of this crisis—that it isn't only Wall Street, that it does involve Main Street, and if there is a serious crash, it will hurt tens of millions of Americans, many of them in irreparable ways. So we must do what we must do, and we must do it prudently and carefully.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. LEAHY. Mr. President, I ask unanimous consent that we go into morning business, with Senators to be recognized at 10-minute intervals.

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

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS ACT OF 2008

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 964, S. 3325.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 3325) to enhance remedies for violations of intellectual property laws, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with amendments.

S. 3325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Enforcement of Intellectual Property Rights Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

SEC. 2. REFERENCE.

Any reference in this Act to the ''Trademark Act of 1946'' refers to the Act entitled ''An Act to provide for the registration of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 3. DEFINITION.

In this Act, the term ''United States person'' means—

(1) any United States resident or national,

(2) any domestic concern (including any permanent domestic establishment of any foreign concern), and

(3) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern,

except that such term does not include an individual who resides outside the United States and is employed by an individual or entity other than an individual or entity described in paragraph (1), (2), or (3).

TITLE I—AUTHORIZATION OF CIVIL COPYRIGHT ENFORCEMENT BY ATTORNEY GENERAL

SEC. 101. CIVIL PENALTIES FOR CERTAIN VIOLATIONS.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by inserting after section 506 the following:

''SEC. 506a. CIVIL PENALTIES FOR VIOLATIONS OF SECTION 506.

''(a) IN GENERAL.—In lieu of a criminal action under section 506, the Attorney General may commence a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 506. Upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty under section 504 which shall be in an amount equal to the amount which would be awarded under section 3663(a)(1)(B) of title 18 and restitution to the copyright owner aggrieved by the conduct.

''(b) OTHER REMEDIES.—

''(1) IN GENERAL.—Imposition of a civil penalty under this section does not preclude any other criminal or civil statutory, injunctive, common law, or administrative remedy, which is available by law to the United States or any other person.

''(2) OFFSET.—Any restitution received by a copyright owner as a result of a civil action brought under this section shall be offset against any award of damages in a subsequent copyright infringement civil action by that copyright owner for the conduct that gave rise to the civil action brought under this section.''.

(b) DAMAGES AND PROFITS.—Section 504 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in the first sentence—

(i) by inserting '', or the Attorney General in a civil action,'' after ''The copyright owner''; and

(ii) by striking ''him or her'' and inserting ''the copyright owner''; and

(B) in the second sentence by inserting '', or the Attorney General in a civil action,'' after ''the copyright owner''; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting '', or the Attorney General in a civil action,'' after ''the copyright owner''; and

(B) in paragraph (2), by inserting '', or the Attorney General in a civil action,'' after ''the copyright owner''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by inserting after the item relating to section 506 the following:

''Sec. 506a. Civil penalties for violations of section 506.''.

TITLE II—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY LAWS

SEC. 201. REGISTRATION OF CLAIM.

(a) LIMITATION TO CIVIL ACTIONS; HARMLESS ERROR.—Section 411 of title 17, United States Code, is amended—

(1) in the section heading, by inserting ''**CIVIL**'' before ''**INFRINGEMENT**'';

(2) in subsection (a)—

(A) in the first sentence, by striking ''no action'' and inserting ''no civil action''; and

(B) in the second sentence, by striking ''an action'' and inserting ''a civil action'';