to find a temporary housing arrangement or to move into another unit can be kicked onto the streets just because their landlord failed to pay on time.

This is wrong, and I am proud to partner with the Presiding Officer and Senator KERRY to pass new protections for those families. This amendment would allow any tenants in a foreclosed building the right to live out their lease, providing them with the same protections any other renter would have. For a family without a lease, the amendment would guarantee a minimum of 90 days' notice so that renters have the time and the resources to find a new home.

As the housing crisis becomes more and more widespread, we need to make sure we are not just helping homeowners stay in their homes but also helping the thousands of tenants who are hit just as hard or even worse as a result of this crisis.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.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. GILLIBRAND). Without objection, it is so ordered.

Mr. DODD. Madam President, I ask unanimous consent that at 2:15 p.m. there be 2 minutes of debate equally divided between Senators THUNE and DODD or their designees; that upon the use or yielding back of time, the Senate proceed to a vote in relation to Thune amendment No. 1030 and that there be no amendments in order to the Thune amendment prior to the vote.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m., and reassembled when called to order by the Acting President pro tempore.

HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009—Continued

AMENDMENT NO. 1030

The ACTING PRESIDENT pro tempore. Under the previous order, there is now 2 minutes of debate equally divided on amendment No. 1030 offered by the Senator from South Dakota, Mr. THUNE.

Who yields the time? The Senator from South Dakota.

Mr. THUNE. Mr. President, very briefly, to summarize, what my amendment does is reduce TARP authority by any amount of principal returned by a financial institution to the Treasury Department. This amendment, as I said before, is necessary because until the December 31, 2009, expiration date, and possibly longer if the Secretary is granted an extension without this legislation, Treasury can continue to use TARP funds, including those repaid, in any manner they see fit.

These are taxpayers' dollars. They should not become a discretionary slush fund. These are dollars that, when they are repaid to the Treasury by the financial institutions, ought to be used to reduce the amount of TARP funding authority that is available.

As of May 1, the new administration has accumulated $580 billion of new debt. That is about $5.5 billion new debt per day. I understand we should not be tying Treasury's hands when we are still in the midst of a financial crisis, but Congress has the responsibility to decide how the tax money is spent, not the administration. If more money is needed in the financial sector, then Treasury needs to present a plan to the Congress and let those of us elected by the taxpayers decide whether additional tax dollars should be placed at risk or spent.

That is what the amendment would do. I urge my colleagues to adopt it.

I ask for the yeas and nays.

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

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I want to take 1 minute. Let me say to my colleagues, all of us would like to see the TARP money come back and we recapture all of it. The danger in all this right now, with the stress test coming out on Thursday, is to be utilizing the TARP money rather than having to appropriate more money, it seems to me, to utilize TARP money to buy toxic assets and make the capital investments is what we want to do. The last thing we want to do is come back here and vote for additional money. Here is a moment when it is critically important that we take advantage of the resources to continue the program, so that we buy the assets, invest the capital necessary to get us out of this mess. At the very moment we want to be doing that, we will be back here voting. I do not need to tell my colleagues, if we need new TARP money, how difficult that would be. To avoid going down that road, utilizing the money that has come back from these interests that have gotten their money makes a lot more sense to me, I respectfully say to my friend from South Dakota.

This amendment could not come at a worse time. We are going to need the capital for institutions that need help. They need help. I am not interested in them. I am interested in their ability to provide credit to homeowners, small businesses, and student loans. The credit system is frozen. We need to unfreeze it. If you deny the ability to invest these TARP dollars into buying assets and providing capital, it seems to me you slow down or set back that process considerably.

For those reasons, I urge my colleagues to vote against the amendment. I thank my colleague for the intention behind it.

Have the yeas and nays been ordered?

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered.

The question is on agreeing to amendment No. 1030. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 48, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—47

Alexander	Dorgan	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Feingold	Nelson (NE)
Brownback	Feinstein	Pryor
Bunning	Graham	Risch
Burr	Grassley	Roberts
Cantwell	Gregg	Sessions
Chambliss	Hatch	Shelby
Coburn	Hutchison	Snowe
Cochran	Inhofe	Tester
Collins	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	Voinovich
Crapo	Lincoln	Wicker
DeMint	Martinez	

NAYS—48

Akaka	Hagan	Mikulski
Bayh	Harkin	Murray
Begich	Inouye	Nelson (FL)
Bennet	Kaufman	Reed
Bingaman	Kerry	Reid
Boxer	Klobuchar	Sanders
Brown	Kohl	Schumer
Burris	Landrieu	Shaheen
Byrd	Lautenberg	Specter
Cardin	Leahy	Stabenow
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Conrad	Lugar	Warner
Dodd	McCaskill	Webb
Durbin	Menendez	Whitehouse
Gillibrand	Merkley	Wyden

NOT VOTING—4

Baucus	Kennedy
Johnson	Rockefeller

The amendment (No. 1030) was rejected.

Mr. DODD. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, we are waiting for someone to come with an amendment. In the meantime, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BOND. I ask to be permitted to speak as in morning business for up to 6 minutes.

Mrs. BOXER. Reserving the right to object, and I will not object, if the Senator could amend that to say Senator BOXER will be called on to talk about a couple of amendments following his remarks, I would really appreciate it.

Mr. BOND. Mr. President, it will be an honor to ask that Senator BOXER, the chair of the EPW Committee on which I am proud to serve, be recognized after my remarks are completed.

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

Mrs. BOXER. I thank the Senator.

GUANTANAMO BAY

Mr. BOND. Mr. President, keeping the American people safe is the Government's highest priority. Keeping our Nation safe should not be a political issue; it is an American one. That is why I was disappointed when the White House made an early national security decision based on politics and not what is in the best interests of keeping Americans safe. I am talking about the President's plan to close the terrorist detention center at Guantanamo Bay without a backup plan.

I have been sounding the alarm over this rash decision since the President announced it in January. But it is not just my side of the aisle, the Republicans, who are questioning the President's decision to close Guantanamo with no plan on how to handle the detainees, the terrorists housed there. Yesterday, Democratic House Appropriations Committee chairman DAVID OBEY said, ''So far as we can tell there is no concrete program.'' That is my point exactly.

This is a classic example of ''ready, fire, aim.'' That is a strategy we cannot afford. I prefer aiming before shooting, which is why I keep calling on the President to tell the American people how his plan to close Guantanamo without any plans right now to deal with the detainees will make our Nation safer.

The President needs to honor his pledge of transparency and provide the American people with answers to these questions. How the President answers these questions is even more important now that some of the terrorists could be coming soon to a neighborhood near you. That is right. Some of the terrorist-trained detainees could be coming to American communities.

Last week the Obama administration admitted as much. Defense Secretary Gates testified before our Senate Appropriations Defense Subcommittee that as many as 100 Guantanamo detainees could be coming to the United States. Whether these terrorists are coming to a prison in nearby Kansas or a halfway house in a city in Missouri or any other State, I can tell you this: Americans do not want terrorists in their neighborhoods.

That is why, when we put it to a vote, the Senate voted 94 to 3 against importing detainees to American soil, even if that meant deporting them to a maximum security prison.

Americans also do not want these terrorists sent back to the battlefield to kill our troops. We know the terrorists detained at Guantanamo have gone back to fight even the ones who were supposed to be less dangerous, less likely to do so. The Pentagon has confirmed that at least 18 detainees who were released have gone back to the fight, and 43 more are suspected of doing the same.

There are no easy solutions. So instead of meeting an arbitrary deadline to close Guantanamo Bay, I sincerely hope the White House will reconsider. I hope the President will realize that closing Guantanamo Bay without having a plan to deal with the terrorists currently there and future terrorists captured on the battlefield is not in our Nation's best interest. Closing Guantanamo with no plan, no plan, is one campaign promise that cannot hold up to national security priorities.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1035

Mrs. BOXER. Mr. President, I will be offering two amendments, one of which is going to be second-degreed by Senator ENSIGN, a friendly amendment we have worked with him on. So we will have a vote on that amendment.

Then the final vote on the other Boxer amendment can be a voice vote without problem. But these are two amendments that are very important to the financial security of the country. One deals with the toxic asset purchase program, the other one deals with making sure our people can actually renegotiate their mortgages if they are in trouble. I will start with that one first.

It seems like common sense if you have a mortgage on your home, you ought to know who holds the mortgage. But in today's real estate market, where the original lender often sells the loan to another entity, you can lose track and not know who actually owns your mortgage. So we are doing a very simple amendment—and I thank Senator DODD and staff, because they have worked so closely with us to draw this up in a good way. It is very easy: When your mortgage is sold or transferred, the homeowner must be informed who owns that mortgage. This is the way it used to be years ago. I remember many times receiving those notices but suddenly it stopped happening.

I want to give you the example of James and Mary Meyers, who took out a high-rate home loan with Argent Mortgage in 2004. Because the loan violated the truth-in-lending laws, they later attempted to exercise their Federal rights to cancel the loan. But the servicer, who happened to be Countrywide at the time, refused to identify who owned the loan. So by the time the Meyers discovered that the current noteholder was Deutsche Bank, the deadline for canceling the loan had passed. The court dismissed the Meyers' claim, even though it found that there were grounds, legitimately, for the Meyers to cancel the loan.

So this kind of hide-and-seek situation has real-life ramifications. It certainly does with the President's plan now that says, if someone has a mortgage that is under water, they can renegotiate, they have a chance. But if they do not know who holds the mortgage, it is a hollow kind of plan. We know that current law does require homeowners be informed when the servicer of their loan has changed. That is in the law. And Federal law does require that the servicer tell the homeowner the identify of the person holding their mortgage.

But servicers routinely ignore requests from homeowners for information on the noteholder. So this is pretty simple. Simply put, it is worth saying, if someone new is holding your mortgage, the servicer has 30 days to inform you as to who that person is.

While servicers are required to disclose this information, there are no penalties in the law for noncompliance and no remedies for a homeowner faced with a recalcitrant servicer.

The law has also failed to protect homeowners because there is no specific requirement that servicers identify the agent or party with the authority to act on behalf of the note holder.

The Boxer amendment provides borrowers with the basic right to know who owns their loan by requiring that any time a mortgage loan is sold or transferred, the new note owner shall notify the borrower within 30 days of the following: the identity, address, and telephone number of the new creditor: the date of transfer; how to reach an agent or party with the authority to act on behalf of the new creditor; the location of the place where the transfer is recorded; and any other relevant information regarding the new creditor.

To be clear, the amendment does not require borrowers to receive a notification every time a mortgage backed security with a slice of their mortgage changes hands. Those are transactions between investors and do not involve a change in ownership of the physical note.

This amendment only provides transparency and gives borrowers an additional tool to fight illegitimate foreclosures or to negotiate loan modifications that would keep them in their homes.

I do not understand why we have to have a vote on this. I know Senator DODD has signed off on this. It is a very important amendment. I will read into the RECORD a list of those supporting this. It is a whole list of consumer groups. I want to list who has endorsed this amendment: the National Consumer Law Center, the National Association of Consumer Advocates, Consumer Action, the Consumer Federation of America, Consumers Union, the National Association of Neighborhoods, the National Council of La Raza, and the National Fair Housing Alliance.

This is a very narrowly targeted amendment with little cost to the industry. But the benefit to homeowners and communities would be absolutely enormous. So it is a simple amendment, common sense. I hope we will have an overwhelming vote for it.

I want to make my statement at this time, and however the chairman wants to dispose of the amendment, if it is accepted by voice, that is fine with me. But if we have to do to a rollcall because we cannot clear it, I ask that we have a rollcall vote.

AMENDMENT NO. 1038

The second amendment I will be offering is one that Senator ENSIGN will be offering a second-degree amendment to. It is a very friendly second-degree amendment. Again, I thank the Banking staff on both sides of the aisle for working with us—Senator DODD, in particular—to make this a very good amendment.

What we are basically saying is, as we go into a new program which is the Public-Private Investment Program, which basically says that when we take toxic assets off the books of the banks, we want the private sector to come in and give a value to those assets, we do not want the Government doing it.

The private sector plays a very important role. What Senator ENSIGN and I believe is very important, and Chairman DODD has agreed, is to make sure it is a very clean process, and there is not a process for collusion between the parties, and no chance to defraud, frankly, the taxpayers.

How could that happen? Hypothetically, you can have a bank that is trying to unload a toxic asset. They want the most they can get for it. They can go to a private party and say: Hey, between us, bid a little bit more for this toxic asset, we will give you a kickback later. They could not call it that. We will take care of you later. That is clearly a no-no. You cannot do that.

Under the Boxer-Ensign language, that would not be allowed. The Treasury would put forward regulations to make sure it is not allowed. We would give the TARP inspector general $15 million to perform audits of selected recipients so we can make sure we are following up with audits and making sure there is no collusion.

We would guarantee there is access to financial data from the Public-Private Investment fund that is necessary to perform these audits, and we would require regulations that are very clear, so that—listen to this—the private sector cannot use money they have borrowed from other Federal programs to pump into the system.

They might be able to use some loans, but we do not want 100 percent of that money being recycled again. In other words, they could take a loan from the Government, then they go buy an asset, and all of the money being used in the program is Government money.

The Boxer-Ensign amendment, which is endorsed by Senator DODD, and I believe Senator SHELBY, I believe has been signed off by both. If I misspeak, I am sure I will be told that. It is a very ''good government'' amendment.

It essentially says as we begin to buy these toxic assets from the banks, we are going to make sure there is no collusion, no fraud, no conflict of interest. We are going to give the inspector general the ability to get the information he or she needs to go in, perform an audit, and keep this program clean.

The last thing taxpayers want is another scandal that revolves around these banks and all of the things they did before. So this is an important amendment.

At this time, I think I have explained both of my amendments. I await hearing from the chairman as to a time to come back and speak for perhaps a minute to generally summarize both of them.

Again, my deepest thanks to Senator DODD. He has worked so hard. Without his help, we could not be at this point on both these important amendments.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Let me first thank our colleague from California for her leadership on this issue. They are very commonsense, straightforward proposals that we think can improve the legislation.

And it is almost, in a way—I was thinking, as my colleague and friend was talking, it is almost sad that we have to have an amendment such as this. You would almost think that there has got to be some law someplace that would say what she is suggesting by her amendment would be covered.

In a way it is a tragic commentary on the times we are in, the idea where we have to say that, by the way, collusion is not permissible. I did not think it was anyway. But her amendment makes it certain in this legislation that that is the case.

I am not sure the of order, but the first comments my colleague gave regarding information about their mortgages, again this is pretty straightforward.

I see Senator ENSIGN is on the floor, and I will be brief, because I want him to be able to offer his amendment so we can move forward.

But the idea that you can find out who owns the mortgage is pretty straightforward. Those of us with a little gray hair on our head—and my colleague from California has none, I want the RECORD to show.

Mrs. BOXER. It turned blond.

Mr. DODD. I do remember when I bought my first home, an old 1710 center chimney cape house in Connecticut. I went down to the Old Stone Bank and got a mortgage. I could go down every day for as long as that mortgage was around and look at it, see it, and pick it up if I wanted to and hold it and do whatever I wanted to do with that mortgage.

Today, of course, because the world has changed, people buy a home—and, of course, put aside the issue of predatory lending and subprime mortgages and the rest—and that mortgage, within 8 to 10 weeks, on average, is sold off. It is securitized, as they call it. This is true of a lot of debt. It is student loans, it is credit cards, it is all kind of debt that gets securitized.

By the way, that is not a bad thing, because that provides liquidity, that provides assets for people so more people can afford to buy homes.

But the Senator from California has pointed out that you ought to know who that is. That seems to me a logical request. If that mortgage has been sold off, who owns it? So if a borrower wants to be able to do something with it, you ought not to have to go through and hire a private investigatory agency to find out who holds your mortgage.

So while we respect the idea that securitization can actually be beneficial to the community at large, if it deprives that owner of the mortgage the opportunity to determine who is the holder of that mortgage, obviously then we have lost something in the process. The Senator from California has proposed a very worthwhile amendment.

The New York Times story of April 24, 2009, notes:

> Advocates wanting to engage lenders ''face a challenge even finding someone with whom to begin the conversation,'' according to a report by NeighborWorks America. . . .

That is exactly what the Senator from California addresses with her amendment. With whom do you begin the conversation? The conversation ought to be with the person who is holding that instrument.

I endorse her amendment and urge my colleagues to do so as well.

Regarding the second amendment, the other amendment offered by Senator BOXER deals with the collusion

issue. I briefly addressed that previously by saying, in a way, I was almost sad to hear her offering the amendment. I was under the impression that was against the law anyway. The idea we are offering an amendment to further corroborate that collusion in these matters ought to be against the law. If it is not, it ought to be.

I commend the Senator from California and her colleague from Nevada for offering the amendment, along with Senators PRYOR and SNOWE. This amendment is clearly a step in the right direction from where we were last week. I do want to say the administration has some concerns. My colleagues know that. They have talked about them. I have listened to them.

I am not suggesting their concerns are illegitimate, but I believe the value of the amendment trumps their concerns. I think we have done enough to continue to move forward, and it is the right step to be taking. This is an important effort. I support the Ensign second-degree amendment to the Ensign-Boxer amendment however that amendment is described.

With that, I yield the floor.

AMENDMENT NO. 1038 TO AMENDMENT NO. 1018

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, my understanding is we are ready to go on the Ensign second-degree amendment. So is it not appropriate for me to send the Boxer amendment to the desk at this time?

Mr. DODD. Certainly.

Mrs. BOXER. I call up my amendment.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 1038 to amendment No. 1018.

Mrs. BOXER. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for oversight of a Public-Private Investment Program, and to authorize monies for the Special Inspector General for the Troubled Asset Relief Program to audit and investigate recipients for non-recourse Federal loans under the Public Private Investment Program and the Term Asset Loan Facility)

At the appropriate place, insert the following:

SEC. ___. PUBLIC-PRIVATE INVESTMENT PROGRAM; ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.

(a) PUBLIC-PRIVATE INVESTMENT PROGRAM.—

(1) IN GENERAL.—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Trouble Asset Relief Program, impose strict conflict of interest rules on managers of public-private investment funds that specifically describe the extent, if any, to which such managers may conduct transactions involving public-private investment funds that affect the value of assets—

(i) that are not part of such public-private investment funds; and

(ii) in which managers or significant investors in such funds have a direct or indirect financial interest;

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury that discloses the 10 largest positions of such fund;

(C) require each manager of a public-private investment fund to report to the Secretary of the Treasury any holding or transaction by such manager or a client of such manager in the same type of asset that is held by the public-private investment fund;

(D) allow the Special Inspector General of the Troubled Asset Relief Program, access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form;

(E) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(F) require each manager of a public-private investment fund to acknowledge a fiduciary duty to both the public and private investors in such fund;

(G) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(H) require investor screening procedures for public-private investment funds that include ''know your customer'' requirements at least as rigorous as those of a commercial bank or retail brokerage operation; and

(I) require each manager of a public-private investment fund to identify for the Secretary of the Treasury each investor whose interest in the fund totals at least 10 percent, in the aggregate;

(2) REPORT.—Not later than 45 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General of the Troubled Asset Relief Program shall submit to Congress a report on the implementation of this section.

(b) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL OF THE TROUBLED ASSET RELIEF PROGRAM.—

(1) IN GENERAL.—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), $15,000,000 shall be made available to the Special Inspector General of the Troubled Asset Relief Program (in this section referred to as the ''Special Inspector General''), which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) PRIORITIES.—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System (including any successor thereto or any other similar program established by the Secretary or the Board), to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(c) DEFINITION.—In this section, the term ''public-private investment fund'' means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System.

AMENDMENT NO. 1043 TO AMENDMENT NO. 1038

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I call up the Ensign second-degree amendment, No. 1043, at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. PRYOR, Mrs. BOXER, and Ms. SNOWE, proposes an amendment numbered 1043 to amendment No. 1038.

Mr. ENSIGN. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To make perfecting changes)

On page 1, strike line 6 and all that follows through page 6 line 5, and insert the following:

(a) SHORT TITLE.—This section may be cited as the ''Public-Private Investment Program Improvement and Oversight Act of 2009''.

(b) PUBLIC-PRIVATE INVESTMENT PROGRAM.—

(1) IN GENERAL.—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Trouble Asset Relief Program (in this section referred to as the ''Special Inspector General''), impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests (which conflict of interest rules shall be implemented by the manager of a public-private investment fund prior to such fund receiving Federal Government financing);

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury (in this section referred to as the ''Secretary'') that discloses the 10 largest positions of such fund (which reports shall be publicly disclosed at such time as the Secretary of the Treasury determines that such disclosure will not harm the ongoing business operations of the fund);

(C) allow the Special Inspector General access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form, and the confidentiality of all such information shall be maintained by the Special Inspector General;

(D) require each manager of a public-private investment fund to retain all books,

documents, and records relating to such public-private investment fund, including electronic messages;

(E) require each manager of a public-private investment fund to acknowledge, in writing, a fiduciary duty to both the public and private investors in such fund;

(F) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(G) require strict investor screening procedures for public-private investment funds; and

(H) require each manager of a public-private investment fund to identify for the Secretary each investor that, individually or together with its affiliates, directly or indirectly holds equity interests in the fund acquired as a result of—

(i) any investment by such investor or any of its affiliates in a vehicle formed for the purpose of directly or indirectly investing in the fund; or

(ii) any other investment decision by such investor or any of its affiliates to directly or indirectly invest in the fund that, in the aggregate, equal at least 10 percent of the equity interests in such fund.

(2) INTERACTION BETWEEN PUBLIC-PRIVATE INVESTMENT FUNDS AND THE TERM-ASSET BACKED SECURITIES LOAN FACILITY.—The Secretary shall consult with the Special Inspector General and shall issue regulations governing the interaction of the Public-Private Investment Program, the Term-Asset Backed Securities Loan Facility, and other similar public-private investment programs. Such regulations shall address concerns regarding the potential for excessive leverage that could result from interactions between such programs.

(3) REPORT.—Not later than 60 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General shall submit a report to Congress on the implementation of this section.

(c) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL.—

(1) IN GENERAL.—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), $15,000,000 shall be made available to the Special Inspector General, which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) PRIORITIES.—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System (including any successor thereto or any other similar program established by the Secretary or the Board), to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(d) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, nothing in this section shall be construed to apply to any activity of the Federal Deposit Insurance Corporation in connection with insured depository institutions, as described in section 13(c)(2)(B) of the Federal Deposit Insurance Act.

(e) DEFINITION.—In this section, the term ''public-private investment fund'' means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury or the Federal Deposit Insurance Corporation.

(f) OFFSET OF COSTS OF PROGRAM CHANGES.—Notwithstanding the amendment made by section 202(b) of this Act, paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting '', as such amount is reduced by $2,331,000,000,'' after ''$700,000,000,000''.

Mr. ENSIGN. I rise to talk about the Ensign-Boxer-Pryor-Snowe amendment. The four of us have worked on this amendment. It is a second-degree amendment, but it is a friendly second-degree amendment to the Boxer amendment. I commend all four offices and our staffs that did superwork over the last several days to come up with the language. It is not compromising language; it is strengthening language. This is great bipartisan work to increase the oversight of this program known as the Public-Private Investment Program or as some call it, PPIP.

The special inspector general of TARP has stated that PPIP is ''inherently vulnerable to fraud, waste, and abuse.'' Our amendment would go a long way to protect taxpayers from such fraud, waste, and abuse.

Most of my colleagues would agree Congress gave far too long of a leash to the Treasury when it created TARP. I know few people who believe the program has been completely successful so far. The PPIP would represent the most ambitious and complex undertaking yet for TARP and by far the riskiest use of TARP funds to date. Let's not make the same mistakes with PPIP that we have made with the rest of the TARP fund so far.

Our amendment would establish key oversight, transparency, and conflict-of-interest safeguards before the program begins, not after. Our amendment will impose strict conflict of interest rules to prevent PPIP fund managers from inappropriately using the program to benefit themselves or their clients. It will require these rules be in place before any Government funds can be used in the new program. The amendment requires rigorous investor screening procedures and robust ethics policies for the Public-Private Investment Program funds. It will require Treasury to issue regulations governing how the program and the Federal Reserve's TALF Program can interact to avoid excessive and dangerous over-leveraging.

Lastly, our amendment calls for significant and improved oversight and transparency of PPIP. The amendment also preserves the language from the underlying Boxer-Snowe amendment that provides the special inspector general of TARP with an additional $15 million to conduct audits and investigations of this new program.

The American people are demanding more accountability and transparency from their Government. President Obama campaigned over and over on change and promised to lead the most open administration ever. Let's send a message to the country that we are backing up that rhetoric with action. Let's shine sunlight on the TARP's newest program from its inception, not once mistakes have been made. Let's put the safeguards in place from the start of PPIP to protect against fraud and waste rather than waiting until after abuses occur.

I urge my colleagues to vote in support of the Ensign-Pryor-Boxer-Snowe amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. ENSIGN. I yield the floor.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1026 TO AMENDMENT NO. 1018

Mr. DEMINT. Mr. President, I ask unanimous consent to set aside the pending amendment and bring up DeMint amendment No. 1026.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 1026 to amendment No. 1018.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of Troubled Asset Relief Program funds for the purchase of common stock, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON USE OF TARP FUNDS.

Notwithstanding any other provision of law, on and after April 22, 2009, no funds made available to carry out the Troubled Asset Relief Program may be used for the acquisition of ownership of the common stock of any financial institution assisted under title I of the Emergency Economic Stabilization Act of 2008, either directly or through a conversion of preferred stock or future direct capital purchases.

Mr. DEMINT. Mr. President, I would like to take a few moments to explain this amendment. I appreciate the chairman allowing me to offer this amendment. It relates to what we call

TARP funds or troubled asset funds we passed last year.

If I can take my colleagues through a little bit of history on how this happened, at the end of last year, the President and the Secretary of the Treasury came to us and explained a very dire crisis, not only in the United States but the world, that the whole financial system was on the verge of collapse, and if we did not pass this $700 billion Troubled Asset Recovery Program, it was very likely we would have financial chaos and even depression in the United States and around the world.

It was a pretty stunning presentation. It curiously lacked a lot of facts. There were no PowerPoint slides or statistics or graphs. It was more: Trust us, we know this is going to happen. We need to pass this immediately.

What they were going to do with the funds—and Secretary Paulson was very specific—was they were going to take this money and buy troubled assets in financial organizations that were too big to fail, that if they failed, it would cause severe problems all around the world. We were being told that unless we pass this money and use it immediately—and they were talking within 24 to 48 hours—to buy troubled assets, the financial system in this country so many depended on would collapse.

At this point, after hearing a number of stories, we started this time last year mailing out checks, mortgage bailouts, all kinds of spending programs. None of it worked. None of it had been done exactly like they said it would. I did not trust the whole process. This was a Republican President. I voted against it, but many of my colleagues voted to pass the troubled asset funds to buy toxic assets, troubled assets in this country and around the world.

It passed, and the President signed it. Not one of these troubled assets has been purchased. Not one. A funny thing happened. The world financial system did not collapse. The people who told us it would either did not have the facts or they were not telling us the truth.

What they did with the money was loan some to the banks. Some of the banks had to have it immediately, apparently, or they would fail. They were too big to fail. We had to have the money.

What our Government did was go to a whole lot of other banks that were doing OK and say: You have to take this too. If you don't take it, then it will be harder for these other banks to take it. We need to have this money spread around. They did not buy the toxic assets. They loaned it to banks and put a lot of pressure on other banks to take it. As soon as they did, we got more and more involved with their business, regulators on the banks' backs. Some of the banks want to give it back. Guess what. We won't let them unless they pass some kind of test.

The Government has moved closer and closer—it kind of reminds me of the children's story, ''The Gingerbread Man.'' It is was one of my favorite stories growing up. If you remember, an older couple did not have any children. The husband was out working in the garden. The wife was making some gingerbread. She had a little left over and made a gingerbread man and put him in the oven. An hour or so later, she heard some rattling in the oven, opened it, and out jumped a gingerbread man. The gingerbread man ran around. She couldn't catch it. It ran out of the house. The husband tried to catch him. All they heard from the gingerbread man was: Run, run, run as fast as you can, you can't catch me, I am the gingerbread man.

Long story. The gingerbread man ran through the whole community. The townspeople were chasing him. The horses and the mules and everyone were chasing the gingerbread man, who kept saying: Run, run, as fast as you can, you can't catch me, I am the gingerbread man.

The gingerbread man came to a wide river and not accustomed to swimming—gingerbread probably doesn't hold up real well in a river—he was stuck with all the town running behind him. Then appeared a fox that offered to give him a ride across the river. The gingerbread man was real suspicious. He knew that fox would probably eat him. The fox said: Don't worry, you can sit way back on my back on my tail way away from my mouth. No trouble, not to worry. Gingerbread man didn't have a lot of choice. He jumped right on his back.

As the fox got out farther and farther in the river, he sank a little deeper and deeper. Gingerbread man howled and jumped up a little closer on his neck. Out a little farther, the fox went down a little bit deeper. Gingerbread man jumped right up on his head. As he got close to the other side, he started sinking his head down and gingerbread man jumped right up on his nose, and as soon as he did, slap, gingerbread man was in the mouth and gone.

Gingerbread man is a lot like our free market system, free enterprise system, and what our whole free market system is in America—fast, dynamic, made our country exceptional and prosperous. Our banking system is the same way. Some of the greatest people in our communities are running banks.

With this TARP program, what we did is similar to a fox. We invited our whole financial system to jump on the back of the Federal Government. What they told us they were going to do they did not do, and each time the Government took another step, a different step, like the gingerbread man and the fox, the gingerbread man jumped closer and closer to the mouth.

What our whole free market system is doing now is sitting on the nose of the fox, the Federal Government, which keeps taking us deeper and deeper into this river. The Federal Government did not buy toxic assets. They kind of pushed loans out into the market. They said they had to do that.

Now we see where they are, telling us this does not look good on the books of banks for it to be a loan. So we are going to just change the balance sheet from a loan to an asset. We are going to turn these loans into common stock, equity, which will make the Federal Government owners in the banks, voting owners.

Folks, there is kind of a sacred line in this country we had not crossed. There is a separation between what the Government does and what the private sector does, and this Government does not own private companies. But just like this fox, we have been led into this thing with misinformation—I hope that is all it is and not outright deception—but we are at the point where the Government is now telling us they are going to own a lot of these banks. They will not let them give it back. They are going to convert it to ownership. All these private companies out there are going to be owned, in part, by the Federal Government.

What we are hearing from investors—Chairman Bernanke said it at lunch today—is when they are trying to get people to invest in financial institutions, what they are finding is a strange thing. The private investors, smart investors, do not want to get in bed with the Federal Government because they do not know what we are going to do. They have every reason not to know what we are going to do because we have yet to do what we said we were going to do with this $700 billion, which will ultimately be over $1 trillion, with which we are now playing in the private stock market.

As we pass this bill that is supposed to protect homeowners, I am offering an amendment. It is an amendment that would force this Government to do at least part or keep it from going further than it already has into the private sector. It would prohibit the Government from converting these loans, which are sometimes referred to as preferred stock now. It is not voting. It would prohibit them from converting this to common stock, to ownership, to equity in these banks.

It should not surprise anyone. We were told this would not happen in the first place. We were told the money was going to buy these toxic assets. This amendment would at least put up a firewall that says: You cannot go any further, fox; you cannot take over private enterprise in America.

A lot of my colleagues are going to give a lot of excuses why they cannot vote for this amendment, but I hope America is looking in at this and remembering that it was not this Government that made this country great, that made us exceptional and prosperous and good, that put us on the top of the world in a lot of ways, the envy of the world. It was not this Government. It was a limited government. It was free markets and free people.

This Government now has pushed and pushed and intervened in the private market to the point where it is not

working. We wonder why people are not investing and why the markets are erratic. Because no one knows what the Federal Government is going to do once it starts playing in the stock market in this country, once it starts arbitrarily converting loans that were for a crisis to own our banks, to own our private companies.

They took the TARP money and made loans to General Motors. What are they going to do with that? They are going to convert it to common stock so this Federal Government owns General Motors.

That is not America. That is not free markets. That is not free enterprise. That is not what we signed up for, and we shouldn't allow it.

This amendment is pretty simple: Government, you cannot go any further. Enough is enough. You cannot convert these loans to common stock. We are going to have a firewall between where you are now and where you want to go.

Folks, we cannot let them go any further. We have lost the line between Government and the private sector. The Government is not set up to manage things and control things. Everything we try to do, we mess up. What we are here for is to develop a framework of law and predictable regulations so free markets and free people can operate. We are not set up to manage auto companies.

I was in a meeting this morning talking about how we were going to manage General Motors and Chrysler. I have been in a lot of boardrooms because I have done a lot of strategic planning for private companies in my lifetime. It is so obvious, we do not have the capability to manage a dynamic, complex, global marketplace. That is central planning. That is what Karl Marx thought we could do. But every time it has been tried in the history of the world, it has failed because there is no way a legislative body and a large national government such as this can manage the private sector.

What happens, though, is we get involved, we make things worse, and then we say we need more government to solve the problem. We are doing that now with AIG, the largest insurance company in the country. We have gotten in, we own most of the stock, mismanagement is rampant, and we are talking about we need more government, we need more money. Folks, it doesn't work.

I would encourage my colleagues to consider what I think we are hearing from all across America: Enough is enough. We can't do this under the guise of one crisis after another. Let's stop this rampage of the Federal Government into our private lives, the free markets, the whole concept of America. Please support this amendment that would stop the conversion of loans—TARP money—into common stock. It is a simple concept. We shouldn't be able to excuse our way around this one.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CLIMATE CHANGE

Mr. BARRASSO. Mr. President, a recent Wall Street Journal op-ed highlighted a dangerous game that is being played right now by this administration and by the Environmental Protection Agency, and it is a game that is being played with the American public about which I have great concerns. The piece in the Wall Street Journal was entitled ''Reckless Endangerment: The Obama EPA plays 'Dirty Harry' on cap and trade.'' The article refers to the Russian roulette style of negotiating that is going on right now by cap and tax advocates who want to pass the President's energy tax in this Congress.

The administration and the majority of the leadership in the House and the Senate have created a regulatory ticking timebomb. It is called the Environmental Protection Agency's endangerment finding. Well, they want to use this ticking timebomb as a threat to get the President's energy tax passed. They are putting this regulatory timebomb on the kitchen table of Americans all across the country. The message to Americans: Your tax money or your livelihood. This is not an idle threat. If allowed to proceed, the irresponsible use of the Clean Air Act will require the EPA to regulate any building, any structure, any facility, any installation that emits above a certain amount of carbon dioxide. The result would be thousands of lost jobs, with no environmental benefit to be seen from it. Hospitals, schools, farms, commercial buildings, and nursing homes will be required to obtain preconstruction permits for their activities.

Further, when you talk to the legal scholars, they will tell you that the statutory language is mandatory and does not leave any room for the EPA to exercise discretion or to create any exceptions. That is the problem. The only jobs this option will create are in law firms, as the litigation bonanza begins. EPA is going to be sued by environmental groups wanting to eliminate exempted sectors. The EPA will also be sued by industries that are not exempted. How is the EPA going to respond to all these legal challenges? I asked EPA Administrator Jackson. She says she can target what she taxes. She claims she is only going to target cars and trucks. Well, that really is setting a precedent of choosing winners and losers. We don't know what standards will be applied to make those decisions. We do not know what role politics will play in the decisions. Jackson's statement also ignores the regulatory cascade that the endangerment finding in the motor vehicle emission standards will trigger. Litigators and courts will drive much of this job-killing regulation.

We now have a nominee to head up the EPA's Air Office—Mrs. Regina McCarthy. We have an Administrator of the EPA and a climate and energy czar who is supposed to coordinate climate change policy for the administration. Well, Carol Browner, the climate and energy czar, has not been confirmed by Congress—not by this Congress—at all. We do not know who is developing this roadmap for how to hijack the Clean Air Act to regulate climate change. What jobs and what industries will be kept? What industries will be penalized? Who will be held accountable for making the decisions? The American people—the people at home in Wyoming whom I talk to—are demanding answers to these questions.

The economic consequences will be devastating. By the EPA's own estimate, the typical preconstruction permit in 2007 cost each applicant $125,000. And how much time do they have to put into this work? Well, on average, 866 hours just to fill out the paperwork. If you are a small business, a farm, or a private nursing home, you have no background in this area. It takes a lot of time and effort, so you need to hire lawyers and you need to hire experts. That costs thousands of dollars that are nowhere in your budget. You are taking time out of the day to figure out all this redtape. While you are spending that time and that money, you are not running your business.

This is going to create such a fog of uncertainty—uncertainty with investors, uncertainty with small businesses. It is going to make it that much harder for small businesses to borrow money, to get a business loan. Nobody is going to know how much this is going to cost their business. If you take a look at our economic situation, with lending in this country having slowed down significantly, this is hardly the right move now for our country and for our economy.

According to the U.S. Chamber of Commerce, there are 1.2 million schools, hospitals, nursing homes, farms, small businesses, and other commercial entities that are not currently covered under these preconstruction permits, and they are going to be vulnerable to the new controls, to new monitoring, to new paperwork, and to new litigation. If even 1 percent of these 1.2 million have to get preconstruction permits, well, that would mean 12,000 new preconstruction permits this year. By the EPA's own analysis, if permitting is increased by just 2,000 to 3,000, that would impose what they call significant new costs and an administrative burden on permitting authorities. How much of a burden? How much cost? Those permitting authorities are the EPA and the 43 States that participate in the program.

The EPA said that the burden ''could overwhelm permitting authorities.''

The net result of all of this is going to be thousands of jobs lost. According to the Heritage Foundation, the job losses are estimated to reach 800,000. Well, if Carol Browner, Administrator Jackson, or Mrs. McCarthy cannot tell us how they will protect American jobs from court challenges, if they can't tell us by what legal authority—legal authority—they can pick the winners and losers, if they cannot provide economic certainty to lenders and small businesses, if they do not know how they will process all the thousands of new preconstruction permits, then they should take this option—this option they have proposed, this option that kills jobs—and they should take it off the table.

I have tried to get answers to these questions from the nominee who will most directly oversee this process—Mrs. McCarthy. I placed a hold on her nomination because these are questions that still need to be answered. I am committed to working with her in a constructive way to get answers to the questions because I believe we do need to chart a new course, a course that makes America's energy as clean as we can, as fast as we can, without hurting small businesses and without raising energy prices on American families.

We should start by not taking any clean energy source off the table. That means fossil fuels fitting with new carbon capture technology. That means exploring for oil and natural gas in an environmentally friendly way, using new technologies. That means promoting carbon-neutral nuclear energy. That means funding renewable energies—wind and solar, geothermal, and hydropower. We need it all. An all-of-the-above energy approach is the key to solving our energy problem for this Nation. I look forward to working with my colleagues on both sides of the aisle to achieve this goal for America.

Mr. President, I yield floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I was listening to what my colleague, Senator BARRASSO, said about the Environmental Protection Agency, and I know it is a little bit off the work Senator DODD is doing, but I hope he won't mind if I take about 3 minutes to respond.

I think what is so interesting is that under the Bush administration, the Environmental Protection Agency drafted the endangerment finding. They found that pollution in the form of greenhouse gas emissions—this is the Bush administration—was absolutely an endangerment to the American people. That is the Bush administration.

You may say: Gee, why didn't I hear about that? I will tell you why. The EPA sent that endangerment finding, that proposed endangerment finding, over to the White House, and it was labeled, as you get your e-mails, ''proposed endangerment finding.'' There was advice immediately from the lawyers over at the Bush White House not to open the endangerment finding—not to read it, not to look at it, not to consider it, not to open it because, they said, once it was open, it was in the public domain and the public would learn that, indeed, climate change is an endangerment to the people of this country. We are talking about extreme weather events. We are talking about organisms that do not live in cold waters, but when the waters get warm, they carry disease to our kids. We saw a case in Arizona where that happened: organisms that never lived in these rivers and streams are now living there. Heat stroke. And that is not to mention the issue of the rising waters, that is not to mention the national security issues, and that is not to mention the fact that the way out of this economic mess is to say: We are going to look at this challenge and we are going to respond to it in a way that will create clean jobs, in a way that will lead us out of this morass and lead us to economic prosperity.

Anyone who has read Thomas Friedman's book ''Hot, Flat, and Crowded'' knows that the country that gets on top of this issue of clean energy and clean energy jobs will lead the world. So for my colleague to get up and say: I am holding up the Obama nominees—that is the party of no. That is the party of no, no, no. They want to keep this information from the American people.

Then they talk about lawsuits and the rest. Well, the fact is that the old EPA was sued repeatedly by community groups and environmental groups because they weren't following the law, and every single time, they lost. So the Supreme Court comes down on the side of cleaning up pollution. I am not afraid of lawsuits because the fact is, the people will win the lawsuits.

My message to the EPA is very simple. It is very different from Senator BARRASSO, who is holding up qualified nominees—Republicans. They are Republicans they are holding up whom President Obama wants to put into his circle of advisers on the environment. This one particular woman I believe served, Senator DODD, your State for Republican Governor Rell, and they are holding her up. They are holding her up.

Why? Because they want to continue being the party of no. No, don't open up the endangerment finding; no, don't trust the people with the information; no, don't think about making polluters pay; no, we are not going to go to clean energy and clean jobs and all the prosperity that will come forward with that. It is a sad day.

My friend and I, JOHN BARRASSO and I, are very good friends. We like each other. We work together when we can. But on this one he will admit and I will admit we do not share a common view. My view is that science should dictate what we do on the health front and the revival of this economy should dictate what we invest in here, so we invest in these high technologies and we create good, clean jobs. I am very sad to hear that my friend will be holding up, and saying no, to some good people.

I understand his point of view. He has every right to do it. But I hope we will file a cloture motion and I hope we will be able to say to the party of no: Please, there was an election. President Obama won. He deserves to have the people in place that he thinks will give him good advice. If you do not like the advice, then legislate against it. But don't hold up good people.

They are doing it every day. The party of no, no, no, no. The American people want us to work together for their benefit and the benefit of their children and their grandchildren. My message to the EPA is do not be bullied into not doing your job. The endangerment finding you have made provisionally is very close to the same endangerment finding the scientists made under George W. Bush. The difference is, this administration is not going to hide it from the American people. We are going to look at it and we are going to figure out a way to respond to it in such a manner that jobs will be created, exports will be created, technologies will come to the fore. To the party of no, I say look inside yourself. The days of the old energy are coming to an end. They are too polluting, they are too costly, they are subject to the whims of foreign dictators.

I remember when George W. Bush went over and kissed the Saudi prince—I was a little surprised at that—begging, begging Saudi Arabia: Oh, please, please, let us have more oil. And the price went up and up and up. Frankly, it was not until the Democrats here demanded that there be some remedy for price fixing—it was not until then that the prices started going down, because there was manipulation. We know that.

I am disappointed that Senator BARRASSO, an important member of the Environment Committee—this is the Environment Committee he is from. It is not the polluting committee. Let's get on with our work. Let's do what is right for the health of the American people. Let's do what is right for the workers in America. Let's develop the technologies. Let's not stand up here, hold decent people up, don't let them get a vote, stop them because you are a little angry that, yes, you did lose the election; and yes, times are changing; and yes, you have to recognize that Lisa Jackson is not Stephen Johnson—who came from a pesticide background, for God's sake.

One thing I found as I look at this administration that I admire—and I do not agree with every single thing they do or say—but I have to say this, they are putting people in place who care about the issue they are supposed to care about. You remember what happened over there with, ''Brownie, you

are doing a great job at FEMA,'' and we had Hurricane Katrina. Brownie had come from the Arabian horses industry. That was his expertise.

Stephen Johnson, EPA, came from a pesticide background. That was his background to head up the Environmental Protection Agency.

Then you had others. You had Spencer Abraham, a nice man. He voted to eliminate the Department of Energy when he was a Senator, and he got to be put in charge of—you got it—the Department of Energy.

I have a great committee I am privileged to chair, but I am distressed that we have to file cloture and stop a filibuster on perfectly well-qualified people, some of whom are Republicans, who are being stopped here by my friend. It is discouraging. But I am optimistic and I know we will get these important nominees through, even though we have to take the time to fight a filibuster and file cloture and get 60 votes. I am convinced we can do it—in closing—because the American people do not want us to be the party of no, no, no. They want us to be the Senate that is going to bring about positive change for the American people.

I say to Senator DODD, thank you for your indulgence here.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 1026

Mr. DODD. Mr. President, I am going to respond, if I may, to our colleague from South Carolina, Senator DEMINT, who offered an amendment, No. 1026, a few minutes ago. Senator BARRASSO and Senator BOXER were talking about the Environment Committee and the work that goes on there a little bit, and I digressed a little bit when that subject matter came up, but I want to bring it back to his amendment which we will vote on, I hope, in a few minutes—maybe a couple of amendments. I notify my colleagues we will try to get at least two votes together so we don't bring people over for just one vote, if we can do that.

The amendment of the Senator from South Carolina, as I think I understand it—but correct me here—would prohibit the Federal Government from either purchasing or converting preferred stock to common stock. This is not a mandate as in present law, it is the option of converting preferred to common stock.

Why is that an important issue? My colleague from South Carolina went on at some length to talk about the overriding issue, going back to last fall, as to whether there should be any program at all of the so-called Emergency Economic Stabilization Act that provided the resources to try to get our financial system on its feet again. That was a very significant debate. Seventy-five of our colleagues in this Chamber, Democrats and Republicans, agreed with President Bush at the time. Candidate Obama and our colleague JOHN MCCAIN, as well as many others, on a bipartisan basis, called for the support of that effort. They accepted the notion as we were told by the chairman of the Federal Reserve Board, Mr. Bernanke, along with the Secretary of the Treasury and others across the political spectrum, that acting at that point was critically important if we were going to stabilize this economy and try to get it back on its feet.

History will probably write for many decades to come about that decision-making process, of the wisdom of it or the lack thereof. I am confident as I stand here today that, while certainly not a well-managed program for a good many weeks, the absence of doing anything, just doing nothing at the time, I think would have created a far bigger problem, a far more serious problem, probably a problem it would be almost difficult to imagine how it would be overcome had that action not been taken. That in no way minimizes how the program was managed, for those who raised serious issues, and still is the subject of significant debate here.

My friend from South Carolina says the Treasury Department should not be allowed to convert preferred stock to common stock. Why is that an important issue in the context of what we are talking about?

First, understanding what preferred stock is, and common stock—preferred stock is almost a debt obligation on which dividends are paid. The whole point is the value of it is in the dividend. With common stock, of course, the value changes based on how well the company is doing. If the company is doing well, the common stock goes up. If they are not doing well, the common stock goes down, unlike preferred shares. So in terms of what is real capital, what is real capital is common stock. Preferred shares are not seen as being real capital.

I gather we have had today, as the Presiding Officer knows we have every Tuesday, the respective two parties gather in our respective rooms to have lunch to talk about the issues of the day. I am told by several of my friends on the Republican side that Chairman Bernanke was the guest at the Republican Conference lunch today and answered questions from our Republican colleagues. I gather one of the questions was—and certainly it was a question he received from us when we met, either alone or together—why aren't banks lending more? We put all this capital up. Why aren't they putting more money out the door to small business and others to help our economy get moving?

I gather Chairman Bernanke expressed the same frustration, that the regulators are being overly restrictive, in some ways threatening these lending institutions, not doing enough to encourage them that they ought to step up and get that capital out, get that credit moving again.

My colleagues on the Republican side heard from the Chairman of the Federal Reserve today and raised a very good question, raised by one of my colleagues—I don't know which one it was who raised the issue—but a very good question: Why aren't the banks lending more?

It seems to me if we accept the DeMint amendment we are going to make the answer even more difficult because what our lending institutions need is obviously capital—whether private capital or otherwise, they need capital. This is not a requirement under existing law that is mandating converting preferred to common, but at a time when we want lending institutions to get more capital, allowing the Treasury to make that conversion where and if they see it as appropriate exactly addresses the question that was raised at the luncheon today: Why aren't banks lending more? Why aren't they providing that kind of assistance to small businesses and others?

This is not about the Government taking over these entities. I don't know of anyone who supports that idea. We are taking positions in these companies far larger than most of us would like, and I hope and I believe it to be the case that as soon as the moment is appropriate we are going to be selling this off and getting out of it as fast as we can. My colleague from South Carolina is correct—I think all of us agree with him—it is not the business of Government to become bank managers or to run automobile companies or to run commercial enterprises. This country has not grown and prospered and done as well as it has in two-and-a-quarter centuries because Government has run these entities. Quite the opposite.

But at a critical time such as this, when our economy is facing the worst crisis since the Great Depression, in almost 100 years, taking positions, getting capital moving on these legacy assets or toxic assets is absolutely essential if we are going to get back on track again.

I am not suggesting that every idea we have had is one that is working. But the idea of saying in this case you have no right, I am going to prohibit you, absolutely mandate that the Treasury Department cannot convert any preferred shares to any common shares, seems to me the kind of overreaching, in a way, in a moment such as that, that my colleague from South Carolina is arguing against and I agree with him. We should not be restricting, in a sense, the ability of people to have the flexibility to respond to a situation and allow this situation to improve.

There is a second reason. We are talking about TARP moneys here. What are TARP moneys? TARP money is taxpayer money. That is the American taxpayers' money. That is what TARP money is. We want to get back this money. We have been told these are loans. We hope they are, that we are actually going to get money back.

You don't get money back necessarily with preferred shares. You get it back with common shares. In any

case, if we are looking to see the Government realize any gain on the sale of its common shares after the economy recovers, as we all hope and believe it will, the Government's upside potential is far greater with common shares than it would be under an amendment offered by the Senator from South Carolina where we would not be allowed to convert preferred to common.

I want to make it clear I am not necessarily advocating this be the case, but I don't want to so restrict the Treasury from making those moves to adversely affect the taxpayer when we could have a far greater benefit if in fact there are common shares coming back in. If that company or entity improves its value, the taxpayer is the clear beneficiary of that if in fact we are holding common shares.

Not allowing the Treasury to make that conversion could directly have an adverse reaction for the American taxpayer who is expecting some return on this—not to mention, of course, the ability to get capital into these entities which is essential if lending is going to occur.

We can go back and debate September and October and I presume history will debate that. But we made that decision and these resources are being far better managed today than they were in the first 60 days or so of that program. Today, to restrict this Department, this Treasury from making these kinds of decisions would be a major blow at the very hour we are going to maybe need this capital in order to get these entities back on their feet.

Why is that important? It has little or nothing to do with the entities themselves. If that were the only argument, I would not be standing here and making it. It is not about the institutions we are getting the capital to, it is about the facilities, the businesses that require capital in order for credit to flow. So we spend a lot of time talking about the capital that goes into these larger institutions. The only reason we talk about it is because the financial system requires that if credit is going to move to small businesses, to homeowners and the like, when that small business shows up at their bank and says: Look, I have a great idea of expanding. I think the economy is improving. I would like to get a loan. I would like some credit. I have some people I need to hire. I have some inventory I need to purchase. I have some improvements to expand my space, and the bank says: I am sorry, we cannot. No capital. Well, if we adopt the DeMint amendment, that will be one of the reasons the answer is no because we absolutely prohibited the Treasury Department of our country from converting, where they think it is wise to do so, preferred shares to common shares. Not because we are requiring it but because we have the flexibility to do it.

When the American taxpayer wants to get a greater return on the investment we have made to get these institutions back on their feet again, and all we were allowed to hold was preferred shares paying a dividend instead of the common shares that could be the upside benefit to the American taxpayer, we would have to look back on this amendment and say: That is the reason we are not doing better than we ought to be doing.

That is really the argument I would give to my colleagues about why I think the DeMint amendment is an unwise move at this juncture. Again, it is more ideological. If you, in a sense, believe we should not be doing anything at all, let the market work its way through all of this—and there is a school of thought that embraces that. I happen to believe that is a dangerous policy to follow, in my view. I think many who looked at this issue from across the spectrum would agree. So that is the alternative. That is why I hope this amendment would be rejected when the time comes for a vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

AMENDMENT NO. 1040 TO AMENDMENT NO. 1018

(Purpose: To amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes)

Mr. REED. First, let me commend Chairman DODD for his leadership on this very important legislation that is going to address one of the most significant issues facing America today; that is, restoring the value in our homes, but also giving people the hope that they can stay in their homes and helping those people who are displaced from their homes to find adequate, suitable housing.

I hope to be able to offer an amendment which would address the issue of homelessness in the United States.

Mr. President, I ask unanimous consent to call up amendment No. 1040 to S. 836 and ask that it be made pending.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, and Mr. BOND, proposes an amendment numbered 1040 to amendment No. 1018.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. REED. This legislation is cosponsored by Senator KIT BOND, Senator BOXER, Senator COLLINS, Senator DURBIN, Senator KERRY, Senator LAUTENBERG, Senator LEVIN, Senator LIEBERMAN, Senator SCHUMER, and Senator WHITEHOUSE. It embodies legislation I introduced earlier this year, along with Senator KIT BOND, the Saving the Homeless Emergency Assistance and Rapid Transition to Housing Act, known in short as the HEARTH Act.

I want to particularly commend Senator BOND for his support, help, and leadership in this effort. He has been an advocate for sensible housing programs, not only on the floor of the Senate but particularly in his duties as a member of the Appropriations Committee and as the Ranking Member of the Subcommittee on Transportation and Housing and Urban Development.

He has been a great leader in advocating for the sensible, sound, and efficient use of taxpayers' resources to help people to find affordable housing. I thank him very much for his assistance, along with all of the other cosponsors.

This legislation is endorsed by the National Alliance to End Homelessness, U.S. Conference of Mayors, the League of Cities, NACo, Habitat for Humanity International, National Association of Local Housing Finance Agencies, LISC, Enterprise, National Low Income Housing Coalition, Corporation for Supportive Housing, the National Equity Fund, NAMI, the Housing Assistance Council and the National Community Development Association. It enjoys widspread support.

According to the Homelessness Research Institute at the National Alliance to End Homelessness, 2.5 to 3.5 million Americans experience homelessness each year. On any one night, approximately 672,000 men, women, and children are without homes.

While strides have been made to reduce homelessness over the last couple of years, the current economic decline has halted such progress.

Today I saw a front page article with a photograph in USA Today of a tent city going up. This is a phenenoman we thought was an artifact of history. Too often people are using any means to shield themselves from the elements.

Organizations such as Amos House, a shelter in my home State of Rhode Island, are seeing an increased demand for their services, while at the same time they are facing budget cuts and the economic downturn has curbed charitable donations.

I don't need to tell anybody in this Chamber how urgent this crisis is.

Across the country, we have already seen tent cities forming; shelters turning away people in need; and most major cities reporting double-digit increases in the numbers of families experiencing homelessness.

There is a tendency to view homelessness as something that happens to a few adults, men and women. But too many children are without homes.

As foreclosure and unemployment rates continue to rise, more families are being pushed out of their homes. Not everyone ends up on the streets. Some are able to move in with friends or family members, but they can not afford a home of their own and they can not find a job to get back on their feet.

America has not seen this level of displacement since the Great Depression and we simply cannot afford to ignore this problem.

That is why I am offering the Homeless Emergency Assistance and Rapid

Transition to Housing, HEARTH, Act of 2009 as an amendment to the Helping Families Save Their Homes Act.

The Banking Committee, of which I am a member, has worked long and hard on this legislation, which I believe has resulted in a very strong piece of legislation.

This amendment invests $2.2 billion for targeted homelessness assistance grant programs and provides local communities with greater flexibility to spend money on preventing homelessness.

While strides have been made to reduce homelessness over the last couple of years, the current economic decline has halted that progress and threatens to overwhelm it.

As a result of the recession, 1.5 million additional Americans nationwide are likely to experience homelessness over the next 2 years according to estimates by the National Alliance to End Homelessness. In Rhode Island, the latest numbers show homelessness is up 43 percent since February of 2008. And the number of shelter residents who cited foreclosure as their reason for becoming homeless tripled in the last 8 months.

This means more trauma for children and adults, more dislocation from schools and communities, and more of a drain on local community services.

In addition to the $2.2 billion for HUD homeless assistance programs, the HEARTH Act would also provide up to $440 million to be used to serve people who are not homeless yet, but are at risk of homelessness. That, I think, is in accord with the spirit of the legislation Senator DODD proposed; to prevent people from losing their homes.

It would allow cities and towns to serve people who are about to be evicted, live in severely overcrowded housing, or otherwise live in an unstable situation that puts them at risk of homelessness. The money could be used to make utility payments, security deposits, and provide short- and medium-term rental assistance.

The HEARTH Act would increase the emphasis on performance by measuring applicants' progress at reducing homelessness and providing incentives for proven solutions like rapid re-housing for families and permanent supportive housing for chronically homeless people.

This is a measure not only to provide resources but also to insist upon accountability.

Today, more families than ever are living on the edge, but the national safety net is not as big or as durable as it used to be.

This bipartisan legislation combines federal dollars with new incentives to help local communities assist families on the brink of becoming homeless. It is a wise investment of federal resources that will save taxpayers money in the long run by preventing homelessness, promoting the development of permanent supportive housing, and optimizing self-sufficiency.

Finally, I wanted to briefly talk about the definition of homelessness.

The HEARTH Act expands the HUD definition of homelessness, which determines eligibility for much of the homeless assistance funding, to include people who will lose their housing in 14 days; any family or individual fleeing or attempting to flee domestic violence, or other dangerous or life threatening situations; and families with children and unaccompanied youth who have experienced a long term period without living independently, have experienced persistent housing instability, and can be expected to continue in such status for an extended period due to a number of enumerated factors, such as a disability.

It also allows grantees to use up to an additional 10 percent of competitive funds to serve families defined as homeless under the Education Department homeless definition, but not so defined under the HUD definition. For areas with low levels of homelessness, up to 100 percent of funds may be used for such purposes.

The HEARTH Act also provides communities with greater flexibility in using funds to prevent and end homelessness. Whether it is the new Emergency Solutions Grant or the new Rural Housing Stability Assistance Program, that would grant rural communities greater discretion in addressing the needs of homeless people or those in the worst housing situations in their communities, this bill allows people to help people who are not technically homeless, and keep them from becoming so.

I recognize there have been tensions on the definition issue. All of us want to be sure that we are providing services to homeless children and families, and those at risk of homelessness.

Our amendment does not change the definition of homelessness in the No Child Left Behind Act for education programs that serve homeless children, nor does it seek in any way to hinder or limit these services.

In fact, our amendment strives to reach an appropriate balance to make sure that there are HUD funds available to help these families.

I hope that my colleagues can join Senator BOND and me, and support this important amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I am very pleased to work with our colleague from Rhode Island on this matter and strongly urge the support of this amendment as well. This is a good bill. We have an underlying bill that is a better bill because of what Senator REED and Senator BOND have added to it. This is a value added to the issue.

It is one that our colleague from Rhode Island has been involved in for virtually the entire time he has been in the Senate, and cared about. His earlier partner, Senator Allard of Colorado, worked with him on the issue. Senator Allard retired from the Senate, so Senator REED reached out to Senator BOND, who has a strong interest in housing issues, and became his partner, along with others. I am proud to call myself one of those partners, as chairman of the Banking Committee.

As we move forward, I know in my own State of Connecticut, we have had a 13-percent increase in homeless families in the last year and a half—that is really beginning in 2007 before this issue of foreclosures exploded in our communities. So I think those numbers are up beyond that.

The number of homeless children and families is now increasing. The fastest growing part of the population that is homeless is children in our country, and this is no longer just that person we see on a street corner who is struggling in their lives. Shelters are jampacked. You can only stay so long. I know many of my colleagues have visited these facilities and seen families who, only weeks before, owned a home or had a place to live, are out of that situation and now are part of a growing number of people. So the timeliness of this legislation could not be more important. We are talking about trying to stop foreclosures.

What an important corollary to that to make sure we are simultaneously providing—Lord forbid people fall into that situation—an opportunity to have decent shelter.

So I thank my colleague from Rhode Island for his leadership. I applaud those of his cosponsors. This amendment would consolidate existing HUD McKinney-Vento homeless assistance programs and make several improvements to cost effectively end homelessness.

I have to take note because I mentioned McKinney-Vento. Both individuals are great friends of mine.

Stu McKinney was a Congressman from Connecticut for many years and took on the issue of homelessness. He passed away many years ago. He had a wonderful family. His son John is one of the Republican leaders in the Connecticut State legislature. His wife Lucy is a wonderful friend. Stu McKinney was a remarkable human being.

Of course, Bruce Vento was a great champion. I served with him in the House as well. McKinney-Vento, we throw these names around, but know that McKinney and Vento were two wonderful Members of Congress who cared deeply about what happened to people who fall on hard times.

We can add the name REED to that group as well. I compliment my friend and urge adoption of his amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I thank the chairman for his kind words and support. I do also recognize Senator Wayne Allard of Colorado. Wayne and I worked together on this legislation for a number of years. In fact, we sort of rotated between subcommittee chairman of the Housing Subcommittee. Consistently and in a very bipartisan

fashion, we worked together. We have been joined by Senator BOND whose leadership on the Appropriations Committee is remarkable when it comes to housing issues. We benefited immensely by the contributions of Senators Allard and BOND. I did not have the fortune of knowing Stuart McKinney. I knew him only by reputation. He was known as a sterling man who worked hard when the issue of homelessness was not as central to our consciousness as it is today.

Bruce Vento was extraordinarily decent. These two gentlemen sort of pointed the way. Now we have to take up the task and move it forward and further. I think we can with this legislation.

I thank the chairman for his support and urge all colleagues to join us in support of the amendment.

I suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, we understand how busy everyone is, but we have to finish this bill tonight. We have people who have amendments they say they want to have a vote on. If they want to debate the issue, they will have to do it soon. We have two votes coming up. I have suggested to the manager of the bill that if people don't come over and there are amendments pending, he move to table them. If they don't want to bring the matters before the Senate, then we will move to third reading. We will finish this tonight. It is not fair for people to stand around waiting for all these great ideas to not come forward. If people want to have their amendments debated and voted on, they better do it pretty soon. We have two votes scheduled forthwith. After that, I hope the people who have amendments will come and speak to the manager of the bill and say: Here is how much time I would like or at least give some indication, just don't ignore us because we will not be ignoring them.

We have to move on. We have many things to do. After we finish this week, we have 2 weeks until the Memorial Day recess. I have mentioned there are certain days we will not have votes, but during the recess, we will not have votes. We have things we have to finish. We have to finish the procurement, credit cards, the supplemental, and this bill and some nominations. I hope everyone will cooperate with the managers of the bill. This is extremely important legislation. The longer we delay in passing it, the more harm it will do to communities all over America.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I believe this request has been agreed to by both the majority and minority.

I ask unanimous consent that there now be 2 minutes prior to a vote in relation to the Ensign second-degree amendment No. 1043 to the Boxer amendment No. 1038; that prior to the vote, the Ensign amendment be modified with the changes at the desk; that upon the use or yielding back of the time, the Senate proceed to vote in relation to the Ensign amendment, as modified; that if the Ensign amendment is not agreed to, then the Senate vote in relation to the Boxer amendment; provided further that if the Ensign amendment is agreed to, the Boxer amendment, as amended, be agreed to and the motion to reconsider be laid upon the table; that there then be 2 minutes of debate prior to a vote in relation to the DeMint amendment No. 1026, with the time equally divided and controlled between Senators DODD and DEMINT or their designees; that after the first vote in this sequence, the second vote be 10 minutes in duration.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, I wished to respond to Senator REID and ask a question to the chairman. I have another amendment that has to do with simply letting a homeowner know when his mortgage has been sold. We have objection on the other side. I wished to make it clear to everyone, I am willing to take that on a voice vote and not have to go through a recorded vote. I wished to make that comment. I hope Senator SHELBY and his side will allow us to move forward on that.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Without objection, it is so ordered.

FARM LOAN RESTRUCTURING

Mr. FEINGOLD. Mr. President, the Treasury Department has committed to provide almost $250 billion in financial assistance to banks and financial institutions as part of TARP, which has become more commonly known as the bank bailout. Based on 2007 figures, 40 percent of all small farm loans come from banks and financial institutions that received more than $1 billion each under TARP. Those loans represent a third of the monetary value of commercial farm credit in these types of loans. So it is clear that a sizable portion of farm loans have been provided by entities that received significant TARP funding.

The Treasury Department's Making Home Affordable program that was detailed on March 4 requires TARP recipients that provide home loans to take steps to avoid unnecessary foreclosures. The idea behind the program is that institutions that benefit from taxpayer funds should, in turn, be required to help home owners as much as possible, by making foreclosure the last resort when loan modification is not a viable alternative. This plan does not apply to farm loans, even though most family farmers and ranchers reside on their farms, and their homes are commonly listed as security on their farm loans. So a foreclosure on a farm loan is also commonly a foreclosure on a home.

Like many other businesses, farmers and ranchers are struggling due to the ongoing economic troubles. The prices they receive have dropped by as much as 50 percent since last year. At the same time, input prices for many farmers remain relatively high. This squeeze from both sides has impacted dairy farmers in Wisconsin and across the country especially hard but is a growing concern in other segments of agriculture as well. Even when national prices have held up, in some localized areas the closure of animal processing facilities has virtually eliminated the market for some farmers' production. These factors beyond their control have meant it is increasingly difficult for many farmers to keep up with their payments, including farm loans.

Given that TARP has injected almost $250 billion to support the financial stability of lenders, it seems reasonable to expect them to offer restructuring as an alternative to foreclosure for farm loans—just as they are required to do already for home loans and similar to the existing requirements for the farm credit system and direct Federal farm loans.

While Senator GILLIBRAND and I believe our amendment to extend requirements to provide loan restructuring as an alternative to foreclosure for farm loans is a sensible approach, we are willing to review the issue further and work with Chairman DODD on the issue. I appreciate the chairman's willingness to accept an alternative amendment we crafted to require a special report by the TARP Congressional Oversight Panel on farm loan restructuring. This report will analyze the current loan modification policies used by TARP recipients and examine the alternatives that could be used for a farm loan. Additionally, Chairman DODD has agreed to work with Senator GILLIBRAND and me to pull together a meeting of USDA and Treasury officials to hear from farm groups and farmer advocates to explain the growing need and how the existing restructuring program works currently under USDA direct loans and the farm credit system.

Mr. DODD. I appreciate the Senator from Wisconsin raising this issue and I will be pleased to work with him to arrange such a meeting, and to ensure that the Treasury Department looks into the concerns raised in the Senator's amendment.

Mr. FEINGOLD. I appreciate the chairman's support and assistance. I just want to note that this is an issue where instead of running from crisis to crisis, we have a chance to be a little proactive and get ahead of what could become a serious crisis in farm country if conditions do not improve. That is why there was such extensive support for my initial amendment from across the spectrum of agriculture-related organizations including the American

Farm Bureau Federation, Dairy Farmers of America, Midwest Dairy Coalition, National Farmers Union, National Family Farm Coalition, National Milk Producers Federation, National Sustainable Agriculture Coalition, Rural Advancement Foundation International—RAFI–USA—and almost 60 others. I will continue working to ensure that their concerns about farm loans are addressed.

AMENDMENT NO. 1032, AS MODIFIED

Mr. DODD. On behalf of Senator FEINGOLD, I call up amendment No. 1032 and ask that the amendment be modified with the changes at the desk; that upon modification, the amendment be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 1032), as modified, was agreed to, as follows:

(Purpose: To require the Congressional Oversight Panel to submit a special report on farm loan restructuring)

At the end, add the following:

TITLE ____—FARM LOAN RESTRUCTURING

SEC. _01. CONGRESSIONAL OVERSIGHT PANEL SPECIAL REPORT.

Section 125(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5233(b)) is amended by adding at the end the following:

''(3) SPECIAL REPORT ON FARM LOAN RESTRUCTURING.—Not later than 60 days after the date of enactment of this paragraph, the Oversight Panel shall submit a special report on farm loan restructuring that—

''(A) analyzes the state of the commercial farm credit markets and the use of loan restructuring as an alternative to foreclosure by recipients of financial assistance under the Troubled Asset Relief Program; and

''(B) includes an examination of and recommendation on the different methods for farm loan restructuring that could be used as part of a foreclosure mitigation program for farm loans made by recipients of financial assistance under the Troubled Asset Relief Program, including any programs for direct loan restructuring or modification carried out by the Farm Service Agency of the Department of Agriculture, the farm credit system, and the Making Home Affordable Program of the Department of the Treasury.''.

AMENDMENT NO. 1043, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the Ensign amendment No. 1043 is modified by the changes at the desk.

The amendment (No. 1043), as modified, is as follows:

On page 1, strike line 6 and all that follows through page 6 line 5, and insert the following:

(a) SHORT TITLE.—This section may be cited as the ''Public-Private Investment Program Improvement and Oversight Act of 2009''.

(b) PUBLIC-PRIVATE INVESTMENT PROGRAM.—

(1) IN GENERAL.—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Trouble Asset Relief Program (in this section referred to as the ''Special Inspector General''), impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests (which conflict of interest rules shall be implemented by the manager of a public-private investment fund prior to such fund receiving Federal Government financing);

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury (in this section referred to as the ''Secretary'') that discloses the 10 largest positions of such fund (which reports shall be publicly disclosed at such time as the Secretary of the Treasury determines that such disclosure will not harm the ongoing business operations of the fund);

(C) allow the Special Inspector General access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form, and the confidentiality of all such information shall be maintained by the Special Inspector General;

(D) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(E) require each manager of a public-private investment fund to acknowledge, in writing, a fiduciary duty to both the public and private investors in such fund;

(F) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(G) require strict investor screening procedures for public-private investment funds; and

(H) require each manager of a public-private investment fund to identify for the Secretary each investor that, individually or together with its affiliates, directly or indirectly holds equity interests in the fund acquired as a result of—

(i) any investment by such investor or any of its affiliates in a vehicle formed for the purpose of directly or indirectly investing in the fund; or

(ii) any other investment decision by such investor or any of its affiliates to directly or indirectly invest in the fund that, in the aggregate, equal at least 10 percent of the equity interests in such fund.

(2) INTERACTION BETWEEN PUBLIC-PRIVATE INVESTMENT FUNDS AND THE TERM-ASSET BACKED SECURITIES LOAN FACILITY.—The Secretary shall consult with the Special Inspector General and shall issue regulations governing the interaction of the Public-Private Investment Program, the Term-Asset Backed Securities Loan Facility, and other similar public-private investment programs. Such regulations shall address concerns regarding the potential for excessive leverage that could result from interactions between such programs.

(3) REPORT.—Not later than 60 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General shall submit a report to Congress on the implementation of this section.

(c) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL.—

(1) IN GENERAL.—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), $15,000,000 shall be made available to the Special Inspector General, which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) PRIORITIES.—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System (including any successor thereto or any other similar program established by the Secretary or the Board), to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(d) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, nothing in this section shall be construed to apply to any activity of the Federal Deposit Insurance Corporation in connection with insured depository institutions, as described in section 13(c)(2)(B) of the Federal Deposit Insurance Act.

(e) DEFINITION.—In this section, the term ''public-private investment fund'' means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury or funds appropriated under the Emergency Economic Stabilization Act of 2008.

(f) OFFSET OF COSTS OF PROGRAM CHANGES.—Notwithstanding the amendment made by section 202(b) of this Act, paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting '', as such amount is reduced by $2,331,000,000,'' after ''$700,000,000,000''.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, there is now 2 minutes equally divided on the Ensign amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. Mr. President, I am here to say this is a very friendly amendment to the underlying Boxer amendment. I hope everyone will support it. I am very proud of the work we did in a bipartisan way. I thank our staffs for doing this. It is a very significant amendment. What we are saying is, as we begin this new program, this Public-Private Partnership to buy toxic assets from the banks, Senator ENSIGN and I wish to make sure there is no collusion in the dealing, that there is no conflict of interest as this goes by. We wish to make sure the inspector general has the funding required to audit this program in a timely fashion. I am very pleased we have had this bipartisan coming together because we were a little bit far apart. But we worked hard for actually a couple weeks on this.

I urge everyone to vote for the Ensign-Pryor-Boxer second-degree amendment, and then we will move for adoption of the Boxer amendment, as amended.

I yield back the time. I do not see Senator ENSIGN here, but I know he believes very strongly in this second-degree amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. They are already ordered.

Who yields time in opposition?

If there is no further debate on the Ensign amendment, the question is agreeing to amendment No. 1043, as modified.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—96

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

NOT VOTING—3

Johnson	Kennedy	Rockefeller

The amendment (No. 1043), as modified, was agreed to.

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

AMENDMENT NO. 1038

The PRESIDING OFFICER. Under the previous order, amendment No. 1038, as amended, is agreed to, and the motion to reconsider is considered made and laid upon the table.

AMENDMENT NO. 1026

Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 1026, offered by the Senator from South Carolina.

Who yields time?

The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, if I could have my colleagues' attention, the next amendment is one that would prohibit the Federal Government from converting TARP loans to common equity. Millions of Americans are telling us that enough is enough. We were told that the TARP money would be used one way, and it hasn't been used that way. It has been used for loans. We cannot let it go further to let these loans convert to common stock.

I urge my colleagues to support at least some firewall between what the Federal Government does and the private sector. We didn't approve TARP funds so the Government could become common equity shareholders in banks across the country. Let's let them give this back when they are capitalized, but let's not get the Government in the business of owning banks.

My amendment would prohibit the conversion of these loans to common equity. I encourage my colleagues to support it.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, briefly, let me thank my colleague from South Carolina. The reason I oppose this amendment is because we ought to have the flexibility. It is not a mandate. Today, the Treasury has the right to be able to convert preferred shares to common shares. There is a reason for that. The markets react in terms of real capital to common shares, not preferred shares. Preferred shares are a form of debt. If you are trying to get capital into lending institutions, which is critical to be able to provide loans, you need to have capital. Common shares allow you to make that determination.

Secondly, on the upside for taxpayers, and TARP money coming back, there is a greater likelihood we will benefit if we have common shares. I am not advocating that kind of conversion, but you ought to have the flexibility to move from preferred to common. You may want to bifurcate that in some of these tranches. The Senator's amendment would prohibit that in any case. I think that is the wrong move to make.

I oppose the amendment and urge my colleagues to vote against it.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 1026.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER), are necessarily absent.

The result was announced—yeas 36, nays 59, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—36

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bond	Enzi	Murkowski
Brownback	Graham	Risch
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Cornyn	Kyl	Voinovich
Crapo	Lugar	Wicker

NAYS—59

Akaka	Feinstein	Mikulski
Baucus	Gillibrand	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bennett	Hatch	Pryor
Bingaman	Inouye	Reed
Boxer	Kaufman	Reid
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cantwell	Landrieu	Specter
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Corker	Lincoln	Warner
Dodd	Martinez	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Feingold	Merkley	

NOT VOTING—4

Bayh	Kennedy	
Johnson	Rockefeller	

The amendment (No. 1026) was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 1036

Mr. KERRY. Mr. President, I call up amendment No. 1036, with a possible modification, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is pending and, without objection, it is the pending amendment.

Mr. KERRY. I thank the Chair.

Mr. President, I am offering this amendment to address the needs of renters in properties that have been foreclosed. This amendment is cosponsored by Majority Leader REID, Senate Banking Committee Chairman DODD, and Senators KENNEDY, BOXER, GILLIBRAND, and MERKLEY.

Congress has already taken extraordinary measures to help troubled borrowers in communities where they have abandoned foreclosed properties, but Congress has done very little to help renters who have been paying their rent regularly on time but, unfortunately, they have landlords who are losing their property to foreclosure. So these renters are absolutely blameless victims in the foreclosure catastrophe that has hit the country.

It is estimated that as many as one in every six mortgages in America is going to be lost to foreclosure in the

next 4 years. In Massachusetts, more than 12,000 homeowners lost their homes to foreclosure last year, an increase of 62 percent in just 1 year. About 3,300 of those foreclosures involved homes with two or three units, and most of those homes had tenants who were evicted.

These renters often have absolutely no idea that their home is about to be foreclosed. Depending on the State they live in, they may be evicted with absolutely no notice. Obviously, this could be particularly difficult for low-income renters who don't have the resources to relocate or even to do so very quickly.

Under this amendment, tenants in any federally related mortgage loan or any dwelling or residential real property with a lease have a right to remain in the unit until the end of the existing lease. If a new purchaser intends to use the property as a primary residence, then the lease may be terminated, but the tenant has to receive 90 days' notice to vacate.

So what we believe is that this provides an appropriate level of protection. It doesn't take away the right of someone who takes over the home in foreclosure to be able to then transition that property or it decides if that person is going to keep the property as a rental property, the person who already has a legitimate lease has a right to be able to stay.

The provisions of this amendment would sunset. I wish to make that clear. This sunset is based on the notion that this is to deal with the current crisis, and it would sunset on December 31, 2012. Furthermore, it states specifically that none of the provisions here would affect any State and local law that provides a longer time period or other additional protections to renters. So there is nothing here that reduces the protection renters get.

Let me give my colleagues a couple graphic examples. A landlord should not be allowed to come in, change the locks, and force out tenants who were there completely legitimately, with an expectation that they were coming home to their same old home. A recent story in the Boston Globe shows how devastating and, frankly, absurd this can be at times.

A Dorchester, MA, man returned to the home he had been renting for the past 4 years. He found that the locks had been changed and a foreclosure notice had been placed on the door. With a neighbor's help, he managed to crawl through a second-floor window to get into the apartment. When the police arrived, he had to beg them not to be arrested. Fortunately, he was not but only because he was able to show proof he rented the apartment. Then for the next 4 months, he had to battle with the bank that then owned the building, enduring no heat, no electricity, and no water while he went through that 4-month process.

This is disgraceful. Unfortunately, it is not an isolated incident. In early January, a 45-year-old former factory worker from China came home to her third-floor walkup in east Boston to find a crew of moving men removing all of her furniture. She thought she was being robbed. She didn't speak English. She pleaded with them in Chinese to stop. She ended up on the street with all of her possessions until a city clerk noticed that the eviction paperwork, which the renter had never received, had expired. A judge issued an order that allowed her to move back. But for how long and under what circumstances?

These kinds of incidents show how completely vulnerable renters are to this foreclosure cycle we are witnessing. It is well documented how foreclosure is already overpowering countless numbers of homeowners who are unable to pay their mortgages, but foreclosure is also causing a rampage of sudden evictions of renters. My amendment would stop that rampage and help unsuspecting renters from falling victim to foreclosure in which they played absolutely no part.

I thank the Senate Banking Committee chairman, Senator DODD, for his support of this amendment. It will very plainly help families stay in their homes. It is a way of preventing an already grave situation being turned into one that is even more egregious and more insulting. I think Senator DODD understands this. No one has worked harder than he has to fight against the level of foreclosures that are taking place.

I appreciate his leadership and his support for the families across the Nation who are facing this kind of foreclosure problem.

I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Pennsylvania.

AMENDMENT NO. 1033 TO AMENDMENT NO. 1018

Mr. CASEY. Madam President, I call up amendment No. 1033.

The PRESIDING OFFICER. Without objection, the clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. CASEY], for himself and Mr. LEAHY and Mr. SPECTER and Mrs. GILLIBRAND, proposes an amendment numbered 1033 to amendment No. 1018.

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

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

The amendment is as follows:

(Purpose: To enhance State and local neighborhood stabilization efforts by providing foreclosure prevention assistance to families threatened with foreclosure and permitting Statewide funding competition in minimum allocation States)

At the end of title I of the amendment, add the following:

SEC. 105. NEIGHBORHOOD STABILIZATION PROGRAM REFINEMENTS.

(a) IN GENERAL.—Section 2301 of the Foreclosure Prevention Act of 2008 (42 U.S.C. 5301 note) is amended—

(1) in subsection (b), by adding at the end the following:

''(5) DISTRIBUTION OF FUNDS IN CERTAIN STATES; COMPETITION FOR FUNDS.—Each State that receives the minimum allocation of amounts pursuant to the requirement under section 2302 shall be permitted to use such amounts to address statewide concerns, provided that such amounts are made available for an eligible use described under paragraphs (3) and (4) of subsection (c).''; and

(2) in subsection (c), by adding at the end the following:

''(4) FORECLOSURE PREVENTION AND MITIGATION.—

''(A) IN GENERAL.—Each State and unit of general local government that receives an allocation of any covered amounts, as such amounts are distributed pursuant to section 2302, may use up to 10 percent of such amounts for foreclosure prevention programs, activities, and services, foreclosure mitigation programs, activities, and services, or both, as such programs, activities, and services are defined by the Secretary.

''(B) DEFINITION OF COVERED AMOUNTS.—For purposes of this paragraph, the term 'covered amount' means any amounts appropriated—

''(i) under this section as in effect on the date of enactment of this section; and

''(ii) under the heading 'Community Development Fund' of title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 217).''.

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on the date of enactment of the Foreclosure Prevention Act of 2008 (Public Law 110-289).

Mr. CASEY. Madam President, this amendment deals with the Neighborhood Stabilization Program, a very important part of our strategy to fight the battle against foreclosure throughout the country. So many States have had a terrible time with record numbers of foreclosures. The State I am from, the State of Pennsylvania, fortunately has not had as big a problem as some States, but we still have a major challenge on our hands.

The good news is we have strategies to deal with it and we have a lot of locally grown, so to speak, strategies in big cities such as Philadelphia and smaller communities where people at the local level are dealing with it on the front end and the back end.

On the front end, that means having strategies in place for counseling and other ways to prevent people from getting into a problem of foreclosure.

This amendment is very simple. What it says is that dollars allocated under this program, some of those dollars should be allowed to be used for foreclosure prevention, as well as mitigation. Basically, what we are asking for in this amendment and what it would do is allow up to 10 percent of the funding under the Neighborhood Stabilization Program to be used for foreclosure prevention programs, activities, and services, and then, secondly, in another category, foreclosure mitigation programs, activities, and services.

I believe it is critically important to give local officials and people running programs at the local level the discretion—a very limited amount of discretion but some discretion—on how they spend those dollars. We hear a lot of discussion in this Chamber all the time

about empowering people at the local level. This is one way to do it. They know how to fight this battle. They have strategies in place to prevent people from falling into foreclosure, but also how to mitigate it if foreclosure comes about.

That is what this amendment is all about. I ask my colleagues to support it. It is the right thing to do for a lot of local communities. It is also the right thing to do for people who are expert at dealing with foreclosure prevention, as well as mitigation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, I ask unanimous consent that the Reed amendment be the pending amendment.

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

AMENDMENT NO. 1042 TO AMENDMENT NO. 1040

(Purpose: To establish a pilot program for the expedited disposal of Federal real property)

Mr. COBURN. Madam President, I call up my amendment to the Reed amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 1042 to amendment No. 1040.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 1036

Mr. COBURN. Madam President, I am going to spend a minute talking about the Kerry amendment. I am sitting over here listening to him. There is no question he is right on what should happen in terms of notifications on evictions. But we are about to make the same mistake we make all the time. That is a State issue. State laws apply, and we are going to pull that in and make it a Federal issue. Anybody who has any connection with Federal insurance, FHA, anything else, we are now going to start writing the laws on contract law in my State, in his State, and every other State. That is exactly how we got into the trouble we are in today.

I hope the American people will look at how we got where we are. We got where we are because we are putting our nose into States' business. We think we have a nexus, no matter what the problem is, we ought to be solving it, which means why have State legislatures anymore? Why have Governors? Why not solve all the problems?

AMENDMENT NO. 1042

Now to the amendment at hand. You cannot help but be discouraged about the Congress. We have all these grand ideas and new programs to expand the size and scope of the Federal Government, but we never want to pull it back in when it is not effective and when it is not working. So what do we do? We create a new program or we renew a new authorization, not looking at the facts, not looking at the downside consequences of it. What we do is just reauthorize it with a good goal in mind.

Helping homeless people is great for us to do. The McKinney-Vento Act in the past has made a great contribution to 250 homeless shelters in this country. But nobody pays attention to the fact that we spent $300 million and went through 30,000 properties to fund 250 homeless shelters.

The other thing that is not recognized is that we have all these pieces of property we cannot get rid of. It is actually 69,850 properties that the Federal Government owns that it is not using. Some of them need to be razed, but they are costing us billions every year to maintain because we have a bureaucracy that we cannot get through to sell the property.

We have $89 billion of cash sitting there right now—right now, $89 billion. That is conservative appraisal values today on properties. We could put that money into the Federal Treasury. That is $89 billion we would not borrow against our grandchildren if, in fact, we had a commonsense, cogent way to dispose of excess Federal properties.

All this amendment does is say let's create a pilot program for 5 years. Let's offset anything 100,000 square feet or less. Anything bigger let's go around it. We are not going to have 100,000-square-foot homeless shelters. And let's incentivize the agencies to get rid of their property by leaving 20 percent of the money they would get from selling those properties in the agency.

The GAO says one of our biggest at-risk programs is our real property management. Peter Orszag testified in his hearings on confirmation that it is a giant problem. So now we come up with an amendment that is common sense. It is a pilot project. All it does is say let's test it on a limited number of properties for 5 years and see if we can't move some of this property, can't lower the cost of Government for the American people, and let's do it in a way that is smart.

We have over 10,000 properties that need to be razed, need to be torn down, that we are expending tons of money to guard or protect or to maintain in a small fashion that is absolutely wasteful. Yet this body does not want to do that. It does not want to approach a commonsense program.

This does not do anything to homeless people. This does not take any opportunities away from them. There is a very set guideline in here on how they get to perform against the properties under the pilot project. But we are going to claim—because the homeless groups that support McKinney-Vento are not happy with it, we are going to claim we cannot do anything. So we are not going to accept this amendment. They are going to raise a point of order because it costs $20 million. But when CBO scored it, they did not count any of the funds coming from the properties.

It is a net gain of billions, and we are going to get a point of order. Why? Because we would rather satisfy completely an interest group than do what is best for the country as a whole. We would rather spend more money than save money. We would rather look good in one area than protect the future in the long term.

One cannot read this amendment and not say it doesn't make common sense for us to be doing it. It is absolute common sense. What the American people know, better than we do, is there is not much of that up here; otherwise, we would have solved this problem 4 years ago when I started offering amendments on it. But we don't want to do it. We don't want to take on the established, connected lobbyists and interest groups that say: No, we don't want that to happen.

We had an offer from the House to do five properties over 5 years. That was the offer from the House—5 out of 69,000 properties—69,000 pieces of property the Federal Government has that it wants to get rid of and we cannot do it because we are afraid we might miss one opportunity to put a piece of property in the hands of good people who want to do the right thing for those less fortunate.

Yet we sit here and we deny common sense. If we sold $89 billion worth of properties, compound that interest over what we are borrowing right now over the next 5 years. Think about how that could offset some of our difficulties today. If we just did half of it, what would happen? The first thing the American people would say is, Hey, they are starting to get it. They are starting to understand what we are going through, making priorities.

The risk of missing an opportunity for a homeless shelter versus getting rid of a high-risk problem that this Federal Government has—not denying but maybe missing one opportunity as small compared to how it is going to impact the future homeless people in this country, who are going to be our grandkids who will never be able to afford to buy a home because we are strangling them with debt.

It will be fine to challenge this on a point of order. I will make a motion to waive the point of order. We can have a vote in the Senate about whether we are going to take commonsense actions that actually help our kids and our grandkids at the same time we are helping the homeless or we are going to say: No, we are not going to do anything new. We are not going to do common sense. We are not going to apply what the ordinary man would do with their own money. We are just going to reject it.

The fact that this is not even considered to be accepted in this bill is a

statement about this body that is unbelievable. There is no legitimate complaint with this pilot program. The only complaint is, those who lobby on the other side do not want it or the only complaint is they are afraid we will not get everything we want if you do that.

This Nation needs to learn right now; if we are going to get out of these problems, we are all going to have to sacrifice something. Everybody is going to have to sacrifice. That means we can't have everything we want. So the very idea that we won't address this issue at this time on housing, when we have a big, large, overburdening problem with real property in the Federal Government, says: What are we thinking about? Why does this not fit within the bounds of what we are supposed to be doing right now? Who are we going to hurt if we create a pilot program to get rid of properties over 100,000 square feet? How much money are we going to save just on maintenance every year? It has to be seen in the light of the whole picture, not just in the light of the homeless. If we fail to do that, we fail to think about the long-term benefits that will come from having common sense in real property reform. We ought to be doing this. We ought to be helping the next two generations.

I am reminded that I did 27 townhall meetings while we were on break. And I will never forget, this guy came up to me and said: I don't care what you do to me, quit hurting my children. Quit hurting my children.

Not accepting this amendment hurts everybody's kids. It is money we could save if we wanted to, but we won't because we don't have the backbone or the courage to do what is the best right thing for the country right now. I have no doubt we will do the politically expedient thing. We won't work on real property. We won't solve this big issue that costs us billions every year just in maintenance costs. We will do the easy thing.

I will have more to say about this as it is challenged on the point of order, and also before the vote, but I hope my colleagues start becoming partisan for our kids, partisan for our children. We can help the homeless and help our kids too. We can help the homeless and create a better future for our kids, but we can't if we won't take a risk. So my challenge to my colleagues is to at least look at the amendment and say: If it was my money, what would I be doing? And the fact is, if it was your money, you wouldn't be sitting on $89 billion worth of property that is costing us billions every year to maintain, that we are not using, and that we can't get through the process to get rid of.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, Senator COBURN has been working very diligently over the last several years to deal with the issue of property disposition. We have established over many decades now certain priorities to access Federal properties, and included in those are very low-priority agencies that provide shelter for homeless people. Prior to these, in my recollection of the distribution of the properties, is the right of State and local governments to buy property at a discounted price.

Madam President, as Governor, you have probably considered this option many times. It is my understanding that this underlying bill would exempt a number of the properties from the Federal Property Act provisions that would allow, in fact, State and local governments to access these properties at prices that are reasonable, particularly now, given the budget pressures of local governments. But, in addition, this 5-year pilot program would encompass the largest and potentially most valuable properties that are held in surplus by the United States.

It is far from a pilot program. What our colleagues in the House are talking about is a true pilot program—a limited number of properties to validate and really legitimize the approach Senator COBURN and others are suggesting. I know the Senator has been working very diligently and sincerely with colleagues on both sides of the aisle, but this represents a version, an early version, I believe, that, at least in terms of discussion with others, has been changed somewhat.

One point I wish to make with respect to the underlying amendment that is important is that we are not attempting to deal with the issue of property distribution, which cuts across the entire spectrum of Federal properties—practically every agency in the Federal Government. That encompasses not only the rights—very limited rights—of homeless groups to acquire property but fundamentally the rights of State and local communities to acquire this property. In fact, for many State and local communities, this program is a major source of economic development.

Again looking at the Chair, who was the Governor of the State of New Hampshire, Pease Air Force Base was surplus property which is now a dynamic economic development tool. My guess, again, was that it was obtained by the State, probably using at least in part some of these powers. All of that would be altered in this pilot program that would give, in fact, public lands managers wide discretion to dispose of properties. Again, it is a pilot program, but it is so long term. Five years is not exactly a short-term, let's do an experiment, evaluate it, and see what can be done.

Our legislation, the underlying amendment, is the result of many years of bipartisan effort to deal with the issue of homelessness, not the distribution or disposition of public property. I think it would represent an extraordinary improvement in the current system. It is more efficient, it consolidates applications, it gives flexibility to local communities, and it deals with the problem that I think is equally compelling for the children of today. There are thousands of children who don't have a home. We have to be cognizant of the future. We have to take prudent steps—and I wish, looking back over the last 8 years, some of my colleagues on this side would have been much more prudent in their fiscal policies that took a surplus in 2001 and turned it into a huge deficit in 2008, 2009. So the ability to look ahead is not exclusive to one side of the aisle. But the legislation I have proposed, along with Senator BOND, represents a reauthorization of McKinney-Vento, which will give the States and localities better tools to deal with the current crisis of countless families who are without homes.

My concern is not only with the breadth of this amendment, with its focus on one part of a much more complicated puzzle, but also the fact that I think it could seriously jeopardize the passage of what is important legislation—the McKinney-Vento reauthorization.

I do believe, because of the Senator's efforts, because of his sincere and energetic and consistent advocacy of this, that this issue is resonating on both sides—both with our colleagues in the House and here in the Senate. I would be extraordinarily disappointed if we were to miss a great opportunity to fundamentally reform the program.

We worked with the Senator last Congress. We had bipartisan support, led by Senator Allard. We had, in fact, the clear endorsement of President Bush and the Housing and Urban Development Department under the Bush administration for our homelessness proposal, but it failed because this legislation, the Reed amendment, was embroiled in this controversy of property disposition which spans every agency of the Federal Government. It is not just HUD, it is the Department of Defense, the Department of Agriculture, the Department of the Interior.

I think if we are going to do something this comprehensive, let's not single out the homelessness initiative as sort of the wedge or the fulcrum or the lever. Let's step back, work collectively, collaboratively, and pass legislation that will apply across the board and will do so in a principled and practical way. There is no opposition to that.

I would also note, as the Senator alluded to, that at an appropriate moment there will be a point of order raised on the legislation. But I would hope that, again, we could move through this proposed second degree, pass the underlying amendment, and not forget but in fact redouble our efforts to approach this in a comprehensive way. I know many colleagues—not only Senator COBURN but Senator CARPER—are sincerely and enthusiastically interested in having reform of the way we dispose of property.

I am certainly also in a position to say personally that I think if we do

this, we have to take into consideration the equities of all the parties. This is not just about homeless groups that get grants, this is about State and local governments, this is about the way we have established over many years the disposition of Federal property. Can it be improved? Yes, it can. Should we improve it? Yes, we should. But I think to essentially target the homeless population as sort of the lever for this change is the wrong approach. So I would, at the appropriate moment, either myself or the manager, raise a point of order.

With that, I yield the floor.

Madam President, I do have another amendment which I would like to call up, but I see the Senator from Oklahoma is here, and he should have an opportunity to speak.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. I appreciate Senator REED's understanding of our effort, but the question arises: We have 69,850 properties. This isn't a big pilot. It only allows 750 properties to be disposed of. Think about that—750. It is barely over 1 percent. It is going to be $800 million to $1 billion, and we are going to block everything—a pilot—because it is too big, too expansive—750 properties out of 69,850. We don't think we ought to attach that now?

We put in extra provisions to make sure the homeless can have these, but most of them aren't good for anything. In fact, most of them will probably be razed. But the fact is, to say we can't do it—we have been saying we can't do it for 4½ years. Can't do it. Can't do it. When can we do it? And 750 properties to look at over a 5-year period is just 150 properties a year. How small does it need to be for us to have a pilot—out of 750, 150 properties a year? A total of 69,850. One hundred fifty, and we can't do that? And because we can't do that, that becomes a symbol for the rest of our failures. We can't sell 750 properties and protect the homeless while we do it and lower some of the burden of the excess real property this Government has. If we can't do that on this bill, a small number of properties, I am wondering what we can do.

It confounds me. It doesn't fit with any sort of common sense. It doesn't fit with any reason. It doesn't fit with any long-term view of how do we get out of the mess we are in. What it fits with is that we don't want to do it because it is hard. We don't want to do it because somebody might yell, somebody might scream. But how do we do the best right thing—not the best thing, the best right thing—for the country? I can tell you that letting another year go by when we have 73,000 properties and $98 billion worth of money and $8 billion a year to maintain it isn't the best right thing.

I am used to standing up and losing, but I am not going to stop putting forward ideas that we shouldn't be rejecting, that make a difference in the outcome for the future of this country. This doesn't have a liberal or conservative slant to it. It is just plain old, good old Oklahoma common sense, good old Connecticut common sense, good old Rhode Island common sense. The fact we would reject it says that our motives have to be somewhat suspect on the reasons we would reject it at this time, especially when we are in the trouble we are in.

It is so discouraging to go home and hear people say, why are you doing what you are doing? Why aren't we fixing this? Why aren't we making the small steps that create a big step that create a yard that create a mile that secures the future?

It is amazing to me that you can have a real objection to this amendment—not 150 properties a year. That isn't going to impact anybody except our kids in the long term, and it is going to impact them positively. But we are going to have a parochial reason why we might not do it? I think that is what I might have heard implied. A parochial protection? We are going to die of parochialism. It is going to kill us. Eighty-plus billion dollars sitting there and we could take and lower the impact of this tremendous downturn and make a difference. Yet we are going to say no.

As they say in Oklahoma—go figure.

Mr. DODD. Will my colleague yield?

Mr. COBURN. I am happy to yield.

Mr. DODD. I understand what my colleague from Rhode Island is talking about, but I must say our colleague from Oklahoma is making a lot of sense. He often does so. Who has jurisdiction over this? Does it depend upon the Federal property, where it is located? Which of the committees?

Mr. COBURN. Homeland Security.

Mr. DODD. People say debates here don't have an effect on anybody. I will make a commitment to you as chairman of the Banking Committee, I will work with you on this.

Mr. COBURN. I appreciate the Senator's offer.

Mr. DODD. I am intrigued by what the Senator is saying. I suspect a lot of other people don't disagree with what he is driving at here. We need to pull some people together to see if we might get something done.

At this late hour of the night I might not be listening to this debate were I not chairing the committee and managing the bill on the floor, but my colleague from Oklahoma I think has raised a very valuable point and it is worthy of our consideration and I would like to sit with him and see if I can't help.

Mr. COBURN. I am happy to take the Senator up on that offer as soon as I lose my amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I want to give my colleague from Rhode Island a chance to be heard but—let him offer his amendment.

Mr. REED. Madam President, there will be an amendment that I propose that will help qualify the status of warrants that are currently held by the Department of Treasury with respect to TARP. It will give the Secretary of the Treasury discretion to dispose of those warrants when he feels it is appropriate. Right now, under language that was adopted in the context of our debates over the recent amendments to TARP, there is a mandatory requirement for the Secretary to surrender or dispose of the warrants if the TARP funds are returned by a financial institution.

I believe the Secretary should have the discretion to hold these warrants if he thinks it is in the best interests of the taxpayers. The whole point of the warrants, and a point I insisted upon in the original legislation for the TARP bill last September, indeed a point that I found to resonate with many of our colleagues on the Republican side—SPENCER BACHUS, the ranking Republican on the House Financial Affairs Committee cited this specifically as one of the reasons why the TARP program could be supported—and that is, in addition to our investment in preferred stock which pays dividends, the Government would also have the right to obtain warrants; that would be the right to acquire stock in the future.

Interestingly enough, at the time we were debating the TARP bill, Warren Buffett, who was a very sophisticated and is a very sophisticated investor, made a preferred stock investment in a large financial institution and also received warrants. So this is typically how many of these deals are done.

At this juncture the institutions receiving TARP funds have the right at any time to pay it back. That is an issue that has been settled. It is the policy of the United States. But I believe the Secretary of the Treasury should have the discretion, because these are separate instruments, to hold those warrants, to maximize, if he can, the market price that he will receive on behalf of the taxpayers.

This, again, is an issue that was very critical to many of us in the initial adoption of the TARP legislation. We are not mandating that the Secretary of the Treasury surrender the warrants, nor are we mandating that he keep them. It will be discretionary. He and his colleagues have, and I believe must exercise, the judgment when it is an appropriate time to surrender these warrants or to take other actions under the contracts under which they were issued, to ensure value for taxpayers.

We have made very significant investments in the financial system through the TARP program. The premise, again, was that not only would the direct investment be repaid, but taxpayers would benefit from the recovery of these institutions. We are seeing that recovery now. We have a ways to go but we are seeing some encouraging signs. I believe, again, that having assumed risks, taxpayers should benefit from the rewards of a revived

financial institution and in that case we are simply making this discretionary with the Secretary of the Treasury so that he can judge whether and when the appropriate time is to surrender the warrants, to receive fair market price for the warrants, and to ultimately help benefit the taxpayers who have put up the money to deal with a huge financial crisis.

At the appropriate time I believe there will be a consent to move forward on this amendment. I hope it would be supported and adopted, but I wanted to make that point at this juncture.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I rise and offer my support for the amendment of the Senator from Rhode Island that repeals the requirement for the Secretary of the Treasury to liquidate warrants under repayment of obligations under the Troubled Asset Relief Program. The Senator from Rhode Island I think has laid out the rationale for this, but the point is under existing law it was rather restrictive and required a specific action without consideration of what the values may be. What the Senator is suggesting is moving from a ''shall'' requirement to a ''may'' gives flexibility, which is exactly what we have been arguing for today in a number of these amendments, giving flexibility dealing with preferred and common shares—flexibility. Some of the other amendments earlier reflect on this flexibility, which is critical.

These warrants change over time. It doesn't suggest by holding back you will necessarily get a better value. It doesn't mean by releasing them earlier you will do better. It is obviously a judgment call and you want to give people the opportunity to make the judgment calls. The beneficiary of all of this ultimately will be the American taxpayer and that is ultimately what we are trying to achieve.

I think my colleague has once again offered a very wise and worthwhile amendment to this bill. It strengthens it, in my view. I thank him for it. I don't know if there is any objection to this at all.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Madam President, I believe they are working on an appropriate consent to adopt it.

Mr. DODD. As soon as that happens, we will move this along and see if we can't get this agreed to.

AMENDMENT NO. 1036

I want to mention a few words about the amendment offered by Senator KERRY from Massachusetts and Senator GILLIBRAND from New York and Senator REID from Nevada, if I may.

This is a very good amendment. My hope is my colleagues will support it. We offered an amendment on earlier legislation dealing with rental properties that were affected under the Government-sponsored enterprise. Under that legislation, we prohibited those properties from evicting tenants who were current in their rental obligations when a property was foreclosed or purchased by a new buyer, the thought being, if a tenant is current in their obligations, they should not be evicted unless they are on a month to month, in which case at the end of the month the landlord would have that right. But if there are leases of longer duration, these tenants ought to be respected under the contracts they have.

I can say in my own State of Connecticut, we do not have a great supply of affordable rental stock. This is not unique in my State. I think this is true in most States. As you are watching more and more foreclosures occurring and as people lose their homes, the demand for rental stock is increasing. The cost of it is prohibitive. In the State of Connecticut—I believe these numbers are correct—I think you need an hourly income of close to $21 an hour to afford the average two-bedroom apartment. Obviously that could fluctuate to some degree, but that gives you some idea of the cost, and that is close to three minimum wage jobs, in effect, in a day to pick up that kind of income.

It is important that we do what we can to protect people in this situation. That is exactly what Senator KERRY does, in that the measure requires at least 90-days' notice for all renters in federally related housing, but would honor the full term of any existing lease unless a new owner will occupy the home. The amendment also amends the housing voucher statute to preserve section 8 contracts at foreclosure. These provisions would be in effect during the foreclosure crisis, sunsetting at the end of December 2012.

This is a very worthwhile proposal. We are protecting an awful lot of good people out there. Frankly, I am somewhat perplexed that there are those who object to this. It seems to me it would be in the interests of a new owner to want to keep people in paying rents, current in those obligations, rather than evicting them and beginning another process unless they are looking for some extremely—higher rents coming in. But it seems to me, given the amount of people out of work, given the declining value of properties, you are probably acquiring these properties at a lot less cost than the previous owner may have had which means the rents you would have to secure wouldn't have to be as expensive to maintain it.

At the very hour people are worrying about where they are going to live—we just heard a discussion by Senator REED about homeless families. The largest increase in homeless families is children in our country.

Again, imagine that family tonight—10,000 tonight, as there were last night, as there will be tomorrow night and every night—who has discovered they are in such default their home is on the auction block or has been lost. That is a pretty compelling moment to know you have lost your home. It further compounds that problem by not knowing where you are going to live, where you are going to take your family—showing up tonight and looking at your children and suggesting you are going to move, going to have to find a different place to live.

What Senator KERRY is saying here, at least for tenants who are in good standing on their properties, they should not be affected because the property ended up in foreclosure through whatever rationale that may have happened to the landlord. It seems to me, putting people out on the street is not what we ought to be doing at a time such as this. Whatever your views are about whether these programs are working as effectively as they should, I think all of us agree the innocent who are being confronted with these decisions should not be left in a more precarious position than they are already in, and that is exactly what would happen in the absence of the Kerry amendment, the Kerry-Gillibrand-Reid amendment.

Once again the majority leader, Senator REID, has taken a strong position on these matters and is making a difference, as he has, by allowing these matters to come up and being as supportive as he has of the various efforts we are making here to complete this work.

I thank Senator KERRY of Massachusetts, his colleagues Senator REID of Nevada and Senator GILLIBRAND of New York, for offering this idea. It is one deserving of our support and will make a real difference.

People have asked whether this bill is going to make a real difference for real people. This amendment makes a real difference for real people, and is exactly what we ought to be doing. These were not the people who caused the problems they are in. These are the victims of what is occurring. If we care about what is happening to them, this is a wonderful way to say we understand it, we are stepping up and making a difference in their lives.

With that, I yield the floor.

Ms. SNOWE. Madam President, I rise in strong support of the Boxer-Snowe amendment, which would be modified by an Ensign-Pryor-Boxer-Snowe second-degree perfecting amendment, to provide for additional oversight of the Public-Private Investment Program—PPIP—which the Treasury Department has established to help remove toxic securities from bank balance sheets and restore the flow of credit.

With up to $100 billion of Troubled Asset Relief Program—TARP—dollars at stake for PPIP alone, it is critical that we take every step at our disposal to safeguard taxpayer dollars. To that end, I am pleased to have collaborated with Senators ENSIGN and PRYOR to modify the amendment Senator BOXER and I initially offered. I hope that the Senate will now approve our consensus language overwhelmingly.

One common feature of PPIP, which will work in conjunction with the

Term Asset-Backed Loan Securities Loan Facility—TALF—that Treasury has established to get small business and consumer credit flowing once again, is that both programs match dollars put forth by private investors with money from TARP, the Federal Reserve, and Federal Deposit Insurance Corporation. One concern that has been raised by private observers and the Special Inspector General for TARP Neil Barofsky in his April 21 report to Congress is the potential for fraud. Indeed, Mr. Barofsky's assessment could not be clearer, as he wrote, ''Many aspects of PPIP could make it inherently vulnerable to fraud, waste, and abuse.''

Unfortunately, the potential for fraud appears widespread. For example, as private funds with access to taxpayer dollars will be created to purchase and manage toxic assets under PPIP, conflicts of interest between what is best for the fund manager and the taxpayer could easily arise. In cases in which a fund already owns or manages the same types of assets it is proposing to purchase on behalf of taxpayers, that could give it the incentive to overpay. The reason is that it could make more money if the price of the assets it already owned were bid up. At the same time, the taxpayer will have overpaid for assets and forfeited an investment fee to the fund managers.

To ensure that taxpayers are not bilked, the original Boxer-Snowe amendment had two objectives. First and foremost, it would require Treasury to work with Special Inspector General for TARP Barofsky to write stringent conflict of interest rules. Second, it would provide Mr. Barofsky's office an additional $15 million to audit transactions under PPIP to ensure taxpayers do not get fleeced. As I mentioned, that Senator BOXER and I were able to work with Senators ENSIGN and PRYOR to strengthen the taxpayer protections contained in our initial amendment. The result is a consensus amendment that will ensure PPIP is subject to strict safeguards that will still allow it to get underway and begin to clear toxic assets from bank balance sheets, thereby, spurring the flow of credit.

Turning to specifics, our consensus amendment will require the Treasury Department to impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests.

Second, each public-private investment fund would be required to disclose quarterly to the Secretary of the Treasury the value of the 10 largest positions of each fund manager.

Third, each manager of a public/private investment fund would be obliged to acknowledge a fiduciary duty to both the public and private investors in such a fund, as well as develop a robust ethics policy and methods to ensure compliance.

Fourth, our amendment would mandate that Special Inspector General Barofsky would have access to all books and records of a public-private investment fund, as well as each fund manager to retain all relevant books, documents, and records to facilitate investigations.

Last but not least, our amendment would add critical legislation proposed by Senators ENSIGN and PRYOR that would require the Secretary of the Treasury to work with Special Inspector General Barofsky to issue regulations governing the interaction of PPIP with the Term-Asset Backed Securities Loan Facility to address concerns regarding the potential for excessive leverage that could result from interactions between the programs. The issue here, is that although both programs would match private funds with public dollars, the government's stake is generally several times higher. For example, in the case of PPIP alone, private funds may only have to put up $7 for each $100 invested. Given that it is always easier to play with other people's money than your own, I am pleased that this language has been added to the underlying Boxer-Snowe amendment.

I ask my colleagues to support this commonsense amendment that would safeguard taxpayer funds on both the front end by mandating critically necessary conflict of interest rules on PPIP and on the back end as well by providing Inspector General Barofsky with additional resources to investigate those who would seek to enrich themselves at taxpayer expense.

AMENDMENT NO. 1039, AS MODIFIED

Mr. DODD. Madam President, I am going to make a series of unanimous consent requests dealing with modifications.

On behalf of Senator REED of Rhode Island, I call up his amendment No. 1039 and ask that the amendment be modified with the changes at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. REED, proposes an amendment numbered 1039, as modified.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment, as modified, is as follows:

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

SEC. 126. REMOVAL OF REQUIREMENT TO LIQUIDATE WARRANTS UNDER THE TARP.

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended by striking ''shall liquidate warrants associated with such assistance at the current market price'' and inserting '', at the market price, may liquidate warrants associated with such assistance''.

AMENDMENTS NOS. 1020 AND 1021, AS MODIFIED

Mr. DODD. On behalf of Senator GRASSLEY, I ask unanimous consent that his amendments Nos. 1020 and 1021 be modified with the changes at the desk.

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

The amendments, as modified, are as follows:

AMENDMENT NO. 1020

At the end of the bill, add the following:

TITLE V—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM

SEC. 501. ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM.

Section 116 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5226) is amended—

(1) in subsection (a)(1)(A)—

(A) in clause (iii), by striking ''and'' at the end;

(B) in clause (iv), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(v) public accountability for the exercise of such authority, including with respect to actions taken by those entities participating in programs established under this Act.''; and

(2) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (F); and

(B) by striking subparagraphs (A) and (B) and inserting the following:

''(A) DEFINITION.—In this paragraph, the term 'governmental unit' has the meaning given under section 101(27) of title 11, United States Code, and does not include any insured depository institution as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 8113).

''(B) GAO PRESENCE.—The Secretary shall provide the Comptroller General with appropriate space and facilities in the Department of the Treasury as necessary to facilitate oversight of the TARP until the termination date established in section 5230 of this title.

''(C) ACCESS TO RECORDS.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, and for purposes of reviewing the performance of the TARP, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the TARP, any entity established by the Secretary under this Act, any entity that is established by a Federal reserve bank and receives funding from the TARP, or any entity (other than a governmental unit) participating in a program established under the authority of this Act, and to the officers, employees, directors, independent public accountants, financial advisors and any and all other agents and representatives thereof, at such time as the Comptroller General may request.

''(ii) VERIFICATION.—The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by, among others, depositories, fiscal agents, and custodians.

''(iii) COPIES.—The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.

''(D) AGREEMENT BY ENTITIES.—Each contract, term sheet, or other agreement between the Secretary or the TARP (or any TARP vehicle, officer, director, employee, independent public accountant, financial advisor, or other TARP agent or representative) and an entity (other than a governmental unit) participating in a program established under this Act shall provide for access by the Comptroller General in accordance with this section.

''(E) RESTRICTION ON PUBLIC DISCLOSURE.—

''(i) IN GENERAL.—The Comptroller General may not publicly disclose proprietary or trade secret information obtained under this section.

''(ii) EXCEPTION FOR CONGRESSIONAL COMMITTEES.—This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over a private or public entity referred to under subparagraph (C).

''(iii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, United States Code, section 714(c) of title 31, United States Code, or other applicable provisions of law.''.

AMENDMENT NO. 1021

At the appropriate place insert the following:

TITLE ____—COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES

SEC. ____. COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES.

(a) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Section 714 of title 31, United States Code, is amended—

(1) in subsection (a), by striking ''Federal Reserve Board,'' and inserting ''Board of Governors of the Federal Reserve System (in this section referred to as the 'Board'),''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''Federal Reserve Board,'' and inserting ''Board''; and

(B) in paragraph (4), by striking ''of Governors''.

(b) CONFIDENTIAL INFORMATION.—Section 714(c) of title 31, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not disclose to any person outside the Government Accountability Office information obtained in audits or examinations conducted under subsection (e) and maintained as confidential by the Board or the Federal reserve banks.

''(4) This subsection shall not—

''(A) authorize an officer or employee of an agency to withhold information from any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

''(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.''.

(c) ACCESS TO RECORDS.—Section 714(d) of title 31, United States Code, is amended—

(1) in paragraph (1), by inserting ''The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency and any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.'' after the first sentence;

(2) in paragraph (2), by inserting '', copies of any record,'' after ''records''; and

(3) by adding at the end the following:

''(3)(A) For purposes of conducting audits and examinations under subsection (e), the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things or property belonging to or in use by—

''(i) any entity established by any action taken by the Board described under subsection (e);

''(ii) any entity receiving assistance from any action taken by the Board described under subsection (e), to the extent that the access and request relates to that assistance; and

''(iii) the officers, directors, employees, independent public accountants, financial advisors and any and all representatives of any entity described under clause (i) or (ii) to the extent that the access and request relates to that assistance;

''(B) The Comptroller General shall have access as provided under subparagraph (A) at such time as the Comptroller General may request.

''(C) Each contract, term sheet, or other agreement between the Board or any Federal reserve bank (or any entity established by the Board or any Federal reserve bank) and an entity receiving assistance from any action taken by the Board described under subsection (e) shall provide for access by the Comptroller General in accordance with this paragraph.''.

(d) AUDITS OF CERTAIN ACTIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Section 714 of title 31, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsection (b), the Comptroller General may conduct audits, including onsite examinations when the Comptroller General determines such audits and examinations are appropriate, of any action taken by the Board under—

''(1) the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) with respect to a single and specific partnership or corporation.

AMENDMENT NO. 1035 TO AMENDMENT NO. 1018

Mr. DODD. On behalf of Senator BOXER, I call up amendment No. 1035.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mrs. BOXER, proposes an amendment numbered 1035 to amendment No. 1018.

Mr. DODD. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require notice to consumers when a mortgage loan has been sold, transferred, or assigned to a third party)

At the appropriate place, insert the following:

SEC. ___. NOTIFICATION OF SALE OR TRANSFER OF MORTGAGE LOANS.

(a) IN GENERAL.—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following:

''(g) NOTICE OF NEW CREDITOR.—

''(1) IN GENERAL.—In addition to other disclosures required by this title, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including—

''(A) the identity, address, telephone number of the new creditor;

''(B) the date of transfer;

''(C) how to reach an agent or party having authority to act on behalf of the new creditor;

''(D) the location of the place where transfer of ownership of the debt is recorded; and

''(E) any other relevant information regarding the new creditor.

''(2) DEFINITION.—As used in this subsection, the term 'mortgage loan' means any consumer credit transaction that is secured by the principal dwelling of a consumer.''.

(b) PRIVATE RIGHT OF ACTION.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended by inserting ''subsection (f) or (g) of section 131,'' after ''section 125,''.

AMENDMENT NO. 1031, AS MODIFIED, TO AMENDMENT NO. 1018

Mr. DODD. On behalf of Senator SCHUMER, I call up amendment No. 1031 and ask unanimous consent that the amendment be modified with the changes at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. SCHUMER, proposes an amendment numbered 1031, as modified, to amendment No. 1018.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

(Purpose: To establish a multifamily mortgage resolution program)

At the end of title I of the amendment, add the following:

SEC. 105. MULTIFAMILY MORTGAGE RESOLUTION PROGRAM.

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding at the end the following:

''SEC. 137. MULTIFAMILY MORTGAGE RESOLUTION PROGRAM.

''(a) ESTABLISHMENT.—The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall develop a program to stabilize multifamily properties which are delinquent, at risk of default or disinvestment, or in foreclosure. The Secretary may use any existing authority to carry out the program.

''(b) FOCUS OF PROGRAM.—The program developed under this section shall be used to ensure the protection of current and future tenants of at risk multifamily properties by—

''(1) creating sustainable financing of such properties that is based on—

''(A) the current rental income generated by such properties; and

''(B) the preservation of adequate operating reserves;

''(2) maintaining the level of Federal, State, and city subsidies in effect as of the date of enactment of this section; and

''(3) facilitating the transfer, when necessary, of such properties to new owners, provided that the Secretary of the Treasury determines such new owner to be responsible.

''(c) COORDINATION.—The Secretary of the Treasury shall in carrying out the program developed under this section coordinate with the Secretary of Housing and Urban Development, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Agency, and any other Federal Government agency that the Secretary considers appropriate.

''(d) DEFINITION.—For purposes of this section, the term 'multifamily properties' means a residential structure that consists of 5 or more dwelling units.''.

AMENDMENT NO. 1036, AS MODIFIED

Mr. DODD. On behalf of Senator KERRY, I ask unanimous consent that his amendment be modified with the changes at the desk.

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

The amendment, as modified, is as follows:

At the end of the amendment, add the following:

TITLE V—PROTECTING TENANTS AT FORECLOSURE ACT

SEC. 501. SHORT TITLE.

This title may be cited as the ''Protecting Tenants at Foreclosure Act of 2009''.

SEC. 502. EFFECT OF FORECLOSURE ON PRE-EXISTING TENANCY.

(a) IN GENERAL.—In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1),

except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) BONA FIDE LEASE OR TENANCY.—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

(1) the mortgagor under the contract is not the tenant;

(2) the lease or tenancy was the result of an arms-length transaction; or

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

(c) DEFINITION.—For purposes of this section, the term ''federally-related mortgage loan'' has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602).

SEC. 503. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting before the semicolon in subparagraph (C) the following: ''and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the initial term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

''(i) will occupy the unit as a primary residence; and

''(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.''; and

(2) by inserting at the end of subparagraph (F) the following: ''In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.''.

SEC. 504. SUNSET.

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.

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

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

AMENDMENT NO. 1021

Mr. GRASSLEY. Madam President, I rise to speak on an amendment I have offered, 1021. It will have Democratic and Republican cosponsors. This substitute amendment gives the Government Accountability Office authority to audit the Federal Reserve.

However, this version limits the Government Accountability Office's new authority to matters involving the Federal Reserve's participation in the TARP or its emergency action under section 13(3) authority.

This is a much narrower version of the original amendment. It is intended to address the Federal Reserve's concern that its core monetary policy functions remain independent of the Government Accountability Office scrutiny.

For over 90 years, the Fed has conducted monetary policy through a combination of open-market operations and changes in banking reserve requirements. On rare occasions, the Fed has invoked its authority under section 13(3) to take extraordinary action to address what they would decide was a very short-term crisis. While these actions are intended to be temporary, they can have a lasting impact on specific institutions and on the long-term credibility of the Fed.

The Fed has created a number of facilities that are making nonrecourse loans or buying and selling assets through a subsidiary of the Fed. These transactions involve undisclosed counterparties. Without adequate oversight, no one will ever know the terms or conditions of these transactions: Who received what from the Fed and what did the Fed receive in return? How much did each of those entities profit and how much did the taxpayers lose?

This amendment is simply about accountability, not monetary policy, because I do not want to interfere in Fed monetary policy. But I do think that when we are helping out businesses, the way we are, sometimes through appropriations from Congress, sometimes through facilities and powers of the Fed, we are talking about taxpayers' money.

If you think the Fed does not have anything to do with taxpayers' money, remember that last year they returned, I think it was, $38 billion to the Federal Treasury—I know it was in the mid-30s that it returned to the Federal Treasury in year-end operations.

They are not going to be able to do that this year, but that $38 billion goes into the general fund to be used, like money being fungible. It is not seen by the taxpayers any differently from the income tax or the payroll taxes that are paid. There is an interest in protecting the taxpayers' money. It is not an interest in doing anything with the independence of the Fed, it is just a matter of knowing who is getting helped, what is being helped, are they profiting, how much are they profiting, and the extent to which the taxpayers are being protected, the instruments the Fed takes in as collateral. These are things that it is good to know. We need to know. We need to know them. Why? Because there are a lot of facilities, institutions, companies being helped that would be belly up—well, I guess you would say they are belly up or they would not need the help—but belly up and they exist because of either Congress appropriating money or because of the Fed intervening.

All good reasons maybe but they operate. So, in my judgment, the public's business ought to be public. Oh, there are some exceptions, such as intelligence information, national security, some privacy. But everything else ought to be public. That is what this amendment is all about. It is all about making sure money is handled responsibly.

The Fed is only supposed to lend money against good collateral. Their authority to conduct monetary policy must not be allowed to degenerate into a taxpayer-funded bailout for those who engage in reckless lending.

I hope people who are going to be voting on this amendment tomorrow will consider what we are trying to do. We are trying to do everything this President said in his campaign—the President has not spoken on this issue, but I am speaking in a general way about what the President said in his campaign—that he wanted more transparency in Government, he wanted more accountability in Government.

For the most part, the President, through various things, maybe not completed yet, has tried to deliver on that promise—putting TARP expenditures on the Internet, for instance, so anybody in the United States can know, maybe not today but eventually, where every penny went—because it is the taxpayers' money. This Government belongs to the American people.

What this Government does that affects the pocketbooks of Americans ought to be made public.

This amendment is not something to try to destroy anything. It is not something trying to get involved in that which affects the monetary policy of the Fed. We are just trying to get information out and make sure people are accountable. We have to have this information to know that. It doesn't hurt one iota to make sure the public has access to this information. I hope Members will support amendment No. 1021 tomorrow.

There is another amendment which, it is my understanding, the managers will accept. But 1021 we will have to have a vote on. I have given my reasons. I may take a minute in the morning to expand on that and remind Senators, but I hope we can move forward and get this agreed to.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Connecticut.

Mr. DODD. Mr. President, I commend my friend from Iowa. He has been a consistent advocate over the years for transparency and accountability. I am pleased to work with him on these amendments. I am fairly confident the committee will accept these amendments as part of the underlying bill. It strengthens what we are trying to achieve. I regret we couldn't arrange to do that this evening while the Senator was here, but there are other powers that my colleague and I are well aware of that need to make sure they pour over everything before we go forward. I thank him for his counsel and his advice and this recommendation.

Mr. GRASSLEY. I thank the Senator.

Mr. DODD. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

CREDIT CARD INDUSTRY

Mr. SANDERS. Mr. President, I wanted to take a couple minutes to talk about an issue that will be on the Senate floor next week, and that is the outrageous way that the credit card industry is treating millions and millions of Americans. Last week, 2 weeks ago, I sent an e-mail out to my mailing list, which is about 135,000 people, and I said: Tell me how credit card companies are treating you. Within a few days, we had 1,000 responses, many from Vermont but, in fact, from all over the country.

Essentially, what people were saying, as they described the treatment they are receiving at the hands of these credit card companies: We are disgusted that at the same time we as taxpayers are bailing out Wall Street and these large financial institutions, at the same exact time as the big banks are receiving zero interest loans from the Fed, the response of the credit card companies and the banks is to double or triple the interest rates we are paying on our credit cards.

The stories that came in were heartbreaking, appalling, and they spoke to the greed and the callousness of many of these financial institutions. We put a couple dozen of these responses into a little booklet called ''Enough is Enough, How Credit Card Companies Are Abusing Americans, Letters from Vermont and the Nation.'' They are available on my Web site at sanders.senate.gov.

What I want to do for the moment is read some of the comments we received from Vermont and around the country and also invite any viewer who has a problem to correspond with us and we will read them right here in the Senate. I think it is time that some of my colleagues in the Senate understood what is going on in the real world.

Yes, I do understand that the financial interests have put $5 billion into lobbying and campaign contributions over the last 10 years. And, yes, I do understand that despite the fact that they have pushed this country, through their greed and recklessness, into a recession, they still have enormous power on Capitol Hill. But maybe it is time that we started listening to the American people rather than the lobbyists from the large banks.

I will read a few of the comments, excerpts from some of the responses we received from all over the country. This is from Donna from New Jersey:

I want to know why consumers are not protected in any way from these predatory lenders who were bailed out with my taxpayer dollars and then turn around and raise my interest rate from 7 percent to 27 percent because of ''difficult economic times'' for the credit industry. This is outrageous! I have not missed a payment and my credit rating is in the high 800's. How can they keep getting away with this?

Well, that is a good question. How can they keep getting away with this? And they continue to get away with it.

This is from James in Highgate Center, VT:

I once had Bank of America charge me 27.99 percent interest when I had only a $53 balance on one of their cards. I of course paid it in full, then closed out the card to avoid doing business with those crooks!

The next one is from Los Angeles, CA, from Jennifer:

I have personally had three separate credit cards raise the APR to 29.99 percent—when I have paid my bills on time (Citicard, Chase and [Bank of America]). Then just last billing cycle, another card I am in perfect standing with doubled my APR—no apparent reason (Chase).

Well, I think Jennifer raises a good question. What are we doing about it? How can companies get away with doubling or tripling the interest rates on people who have always paid their bills on time?

This is from Sheila in Wilder, VT:

I am tired of being the one who has to pay! The executives of these credit card companies mess up and the little people pay. The government messes up and the little people pay. Now my oldest child is going off to college and I can't even get financial help except for loans. Yes, more interest! So now I have to pay more interest on my credit cards. When will I get help?

Well, Sheila, I guess you will have to contribute a whole lot of money into the political system because apparently Congress is not listening to you.

Susan and John in Sea Cliff, NY:

Capital, Chase, and Bank of America all doubled and tripled their rates despite a lifelong perfect payment record, with no excuse (we phoned them) except that they could. This is nothing but breach of promise and a flat-out theft. A good reason for severe, retroactive rollbacks or simple seizure of banks. . . .

Theft? Not bad.

Anne from Brattleboro, VT:

I live in a small town in Vermont. I feel that the credit card companies need to have a ceiling on interest rates and fees they are stealing from us. We pay for the bail out and we pay the interest increases. They must think we are stupid.

And on and on it goes. This is just a couple of dozen. We received 1,000. There are millions of people out there who are sick and tired of being ripped off.

What is the solution? I think the House has made some progress. I guess the Senate committee is making some progress. Ultimately, what we have to do is call a spade a spade and say that when you are charging people 25, 30 percent in interest rates, that is usury. That is outrageous. It should be illegal in America.

As many people know, for a number of years individual States had usury rates. They said loans could not be made out above whatever the rate may be, depending on the State. Then what happened in 1978, the Supreme Court made a decision in the Marquette case which basically said if a credit card company did business in a State without any usury rates, other States could not stop them from charging any interest rates whatsoever. That is, in fact, what has happened.

I have introduced legislation and will bring up an amendment when we debate the credit card issue. I hope we can get some support in the Senate to pass a national usury law. The rate we have decided upon is 15 percent, with some exceptions. The reason we chose that as the ceiling is that is exactly what credit unions have been existing under for 30 years. A lot of people don't know that. But a credit union cannot charge 25, 30 percent interest rates. It is illegal for them to do that by law. So I think if we have a regulatory ethic with credit unions that has been working quite well for the last 30 years—credit unions are not marching into Washington for bailouts—I think we can apply it to the private sector as well.

What we are proposing is a cap on interest rates of 15 percent; under exceptional circumstances, which is currently the case for credit unions, another 3 percent. That would be it.

I think that is sensible legislation. Whether we can get much support here and take on the banking interests, I don't know. But I think it is what the American people want. I certainly hope we can pass legislation like that.

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. DODD. 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. DODD. Mr. President, I ask unanimous consent that no further amendments be in order to S. 896, and that on Wednesday, May 6, following a period of morning business, the Senate resume consideration of S. 896, and proceed to vote in the order listed on the pending amendments, with no amendment in order to any amendment listed; that prior to each vote, there be 2 minutes of debate equally divided and controlled in the usual form; that after the first vote, any succeeding votes be limited to 10 minutes each: Senator Reed of Rhode Island No. 1039, as modified; Boxer No. 1035; Casey No. 1033; Grassley No. 1020, as modified; Coburn second degree No. 1042; Reed of Rhode Island No. 1040, as amended, if amended; Kerry No. 1036, as modified; Schumer No. 1031, as modified; Grassley No. 1021, as modified; provided further, that upon disposition of the listed amendments, the substitute amendment, as amended, be agreed to and the motion to reconsider be laid upon the table; the bill be read a third time, and the Senate then proceed to vote on passage of the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MORNING BUSINESS

Mr. DODD. Mr. President, I have a series of unanimous consent requests to make.

I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

FOREIGN AID REFORM

Mr. LEAHY. Mr. President, as the administration considers ways to reform our foreign aid programs, I want to call attention to a recent Op Ed piece by a Vermont friend who has over 30 years of experience dealing with these issues.

Dr. George Burrill founded Associates in Rural Development—ARD—in Burlington in 1977 and since then he has brought Vermont common sense and values to international aid and development work. Since its founding, it has implemented some 600 projects around the world including extensive work with the U.S. Agency for International Development. Today ARD, a for-profit international development firm, has $100 million in annual revenue operating out of 43 field offices around the world.

Throughout his career, Dr. Burrill has thought long and hard about ways to make foreign aid more effective. In his recent piece in the Burlington Free Press, a copy of which I will ask to be printed in the RECORD, Dr. Burrill calls for a ''modernization'' of our thinking about foreign aid; the creation of a global development strategy to give U.S. foreign aid agencies a way to effectively evaluate past actions and determine what reform is needed; and tools for evaluating progress. Beyond that, he proposes developing a ''coherent strategy that will foster economic opportunity'' in the developing world, enacting legislation that ''elevates development as a foreign policy pillar equal with diplomacy and military defense,'' and creating an independent executive agency bringing together the relevant Federal agencies and departments into a single group ''giving the executive branch the authority it needs to develop solutions to 21st century problems while providing accountability to Congress.''

Foreign aid reform means many things to different people, but there is one thing we all agree on—it is overdue. Dr. Burrill's voice is one that should be listened to, and I commend him for speaking out.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Burlington Free Press, Apr. 30, 2009]

MY TURN: INVESTING IN SMART POWER IS FOREIGN AID WELL SPENT

(By George Burrill)

During his campaign, Barack Obama called for salvaging America's international reputation. Rebuilding international respect and trust, he correctly maintained, is vital to our future security and economic well-being. The president's new budget proposal indicates that he intends to follow through with this promise. Americans should be encouraged and relieved that the budget supports an increased emphasis on nonmilitary responses to our security and foreign policy interests.

A major component of nonmilitary response is our foreign assistance and development programs. They are critical in the struggle against global poverty, open markets for our products, spread our basic values, and help address global environmental and economic problems. In the 21st century, America needs smart power, as robust a diplomatic and international development capability as it has military strength. Now is the time to modernize our thinking about how to relate to the developing world.

There are several steps the Obama administration must take in order to achieve the promise of a bold makeover. These steps are consistent with the effort to make government more efficient and to ensure that the American public is getting more services and impact for the dollar. And they won't cost anything.

First, along with the redesign of our national security and foreign policy, which the president has already vigorously embarked upon, government needs to simultaneously create a global development strategy. We need a coherent strategy that will foster increases in economic opportunity for the bottom billion of Earth's residents and help eliminate the conditions that foster conflict in the developing world. When the United States leads on international development and relief issues, it enhances our international standing and strengthens our relationships with allies. It creates improved possibilities for America's global agenda.

Second, the White House needs to work with Congress and representatives of the broader development community in crafting new legislation that elevates development as a foreign policy pillar, equal with diplomacy and military defense. We currently have an outdated, inadequate set of legislation; international foreign assistance efforts that are spread across at least 20 different agencies (which has created competing fiefdoms and inefficiency). No single person or authority is clearly in charge that the president and Congress can hold accountable. New legislation would provide the congressional mandate for streamlined organizational structures and coherent policies, and give the executive branch the clear authority it needs to develop solutions to 21st-century challenges while providing accountability to Congress.

Third, a modernized set of foreign assistance policies and operations must be placed in a single, streamlined, consolidated and empowered U.S. development agency. The ideal option for streamlining and eliminating the current, inefficient, multi-agency situation would be to create a new Cabinet-level department for global development, as is the case in England. Or the White House could work with the Congress and create a new subcabinet, independent executive agency. Either option should merge all international development and humanitarian programs into a single entity. Agencies such as the U.S. Agency for International Development, the Millennium Challenge Corp., the President's Emergency Plan for AIDS Relief and all the international development programs of various agencies including those in the Department of Defense should be merged.

As a candidate, Obama indicated his support for these actions, but there have been no recent public comments by the administration about any planned reorganization. Efficiency calls for it.

America cannot afford an uncoordinated, confused or second-best approach to our relations with the developing world. Our foreign assistance programs have immense importance in addressing global poverty, eliminating the environments that help create terrorists and fostering the advancement of a sound global economy. The Obama administration and Congress must not miss this opportunity to modernize our foreign assistance infrastructure. Getting the most out of the new budget demands it.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard.