

Mr. GREGG. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

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

AUTOMOBILE INDUSTRY

Mr. GREGG. Mr. President, I rise to speak about the continuing effort to address the issue of our automobile manufacturers—specifically, Chrysler and General Motors, and especially where the taxpayer ends up in this effort, whether the taxpayer ends up as a winner or a loser.

On the Chrysler bailout proposal, it is pretty clear that if the administration's initiative is followed through, some very significant events will occur that will adversely affect the taxpayer. In fact, instead of getting a brandnew car, the taxpayer is going to let a lemon.

What is being proposed by the administration—or what was proposed prior to the bankruptcy being filed and which is now being pushed by the administration into bankruptcy, as I understand it—is that the three different classes of basic players, relative to the reorganization of Chrysler, would get significantly different treatment. For example, the taxpayer, who has already put \$4 billion into Chrysler—the American taxpayer—would have to forgive all of that; all \$4 billion would be lost, 100 percent lost under the administration's proposal, and then they would be asked to put another \$8 billion into the pot as Chrysler comes out of bankruptcy. In exchange for forgiving the first \$4 billion, the taxpayer would get 8 percent of the new Chrysler, the Chrysler that came out of bankruptcy. This was the proposal. I don't think that sounds like a great deal for the taxpayer, to have put \$4 billion in and get none of it back—and remember, we just put the \$4 billion in—and then to be asked to put another \$8 billion in and get an 8-percent stake. It especially doesn't make a lot of sense when you look at what is proposed—well, let's go to the bondholders next, though.

The bondholders would be asked to essentially take an even more significant reduction in their position, which may be legitimate. They would be asked to forgive, I believe—well, I am not absolutely sure of the number they would be asked to forgive, but I think it would be in the multiple-billion-dollar range, and they would be asked to forgive it, even though they may be secured bondholders. So they would be basically wiped out in this process or their interests would be reduced dramatically.

The practical implications of that are that the bondholders had invested poorly, obviously, and specifically, they would have to forgive, I believe, \$4 billion of their \$6.8 billion of debt, and they would get \$2 billion back. But that would be a big haircut, and that is

probably reasonable. They made a bad investment. But interestingly enough, even though they are secured creditors, in many instances, or have a higher priority of bond debt than, for example, the UAW debt or maybe even the taxpayer debt, their position would be treated more detrimentally than the taxpayer or the UAW. That doesn't bother me all that much, from the standpoint of the taxpayer. Obviously, we should be treated better than anybody else in this process.

It does bother me a little bit from the standpoint of how you prioritize debt. If we look at what is happening with the UAW in the deal, as proposed by the administration, they would have to forgive, I believe, approximately \$6 billion of their outstanding responsibility—outstanding debt—which is about 57 percent of the obligation of Chrysler to the UAW. But in exchange for forgiving that \$6 billion, they would get a 55-percent stake in the new company.

So to review this situation, the UAW would forgive 57 percent of their debt owed them by the company—or \$6 billion—and they would get 55 percent of the new company. The taxpayer would have to forgive 100 percent of what was just put into Chrysler and would get 8 percent of the new company. The senior bondholders would have to forgive all of their debt, and in exchange they would get \$2 billion back. That doesn't make a lot of sense.

Basically, what is happening is, the UAW, the union, is being put in a far superior position than the bondholders, who are secure, or the American taxpayer, who basically was asked to put up \$4 billion, and then has that wiped out in exchange for 8 percent of the new company, and then is being asked to put in another \$8 billion.

This has two fairly significant implications. First, the taxpayer is buying a lemon, getting a bad deal. We, the taxpayers, are getting a bad deal. Second, the unions are getting a great deal. They are getting a higher status as secured debtors. They are getting a significantly higher return—which is 55 percent versus 8 percent of the new company—than the taxpayer. The process is basically turning on its head the traditional legal order under which people are repaid out of a bankruptcy estate. The taxpayer usually comes first out of a bankruptcy estate. Usually, it is the IRS in that case, then comes senior debt, then comes the issue of debt owed to pension funds, obligations which the unions have, and then comes the common equity. In this structure, it is just the opposite. Well, that change sends a very serious signal to the marketplace that is not good because if people don't know the prioritization of debt, then they don't know how to lend money and what the cost of the money they lend should be.

That is going to affect interest rates and create uncertainty and basically undermine what is an established rule of law that we have in this Nation rel-

ative to the prioritization of how people get paid off when somebody goes into bankruptcy. It is a very important issue, one of the things that makes our commercial system different than, say, a place like Russia, where you have no idea what is going to happen when you go into a court system because it is totally arbitrary. In ours, we have a structured proposal, an orderly way of approaching things. Everybody knows what is going to happen if an investment should go south. Everybody knows what their order of priority is in being paid out. In a bankruptcy situation, it is pretty clear.

Yet now comes the administration, and for what appears to be purely political reasons, not economic reasons, because the economic issue is how you basically take a company such as Chrysler and make it competitive again so it can produce cars that people want to buy at a price people can afford—that is the economic issue—and keep it viable to the extent that it is viable. No, this is a political decision to reorder who the winners and losers are in a structure—what amounts to an attempt to structure a bankruptcy before it occurs. That was the administration's initiative.

This is a serious issue. When we start putting politics in place of the law in any area in our Nation, but obviously in the area of commercial activity—when we start picking winners and losers based on the political party's implied interest or interest in seeing a certain segment of the society be the winner versus another segment they see as being less deserving, then we undermine the essence of our commercial activity in this Nation, which is to have knowable, identifiable, ascertainable results, as a result of having a legal system that defines people's property rights.

Yet this administration, in a very cavalier way, has suggested that the UAW should be a huge winner compared to the taxpayers and the bondholders in a manner which has no relationship to what has been the historical priority of status relative to distributing and reorganizing a company—distributing a bankruptcy estate and reorganizing a company.

Why would it occur that this administration would, in a very arbitrary way, try to set aside the rules of priority of ownership and property rights to benefit one group over another group outside of what has been the historical and legal way things have been structured? It is obvious. It doesn't take much to recognize that. The UAW has a huge political influence in this administration and in this Congress. They used that political influence to make sure this deal was structured in a way that most significantly benefitted them. But who is the loser? The loser is the real stakeholders and people to whom we are supposed to have primary responsibility as a government, and that is the taxpayers. The taxpayers are the losers on the face of it, when we

only get 8 percent and the unions get 55 percent of the new company, and we are paying \$4 billion and they are paying \$6 billion, and then we are putting in another \$8 billion on top of our \$4 billion. So it ends up being \$12 billion, and we only get 8 percent. The unions will put in \$6 billion to get 55 percent.

That is not right. It is not appropriate, and it is not fair to the taxpayers of America. But that was the proposal and what is trying to be strong-armed through this system. It is not fair to the taxpayers. It also sets a dangerous precedent of trying to reorganize the stated priority of status relative to the right to recover under a bankruptcy situation or pursuant to secure property issues in a way that could be translated into, significantly, other parts of the economy.

People will now question the status of their debt and inevitably have to charge more in order to try to ensure over the unpredictable consequences of the Government coming in and reordering the priority of the debt. That is dangerous in a commercial society that depends on law in order to set an established order of property rights.

This is a big issue. It hasn't been discussed much. Obviously, the bankruptcy courts have now stepped in because some of the secured parties have said they wouldn't accept the deal. But still the administration pushes this concept of having the taxpayer take a vastly significant, reduced position compared to the UAW, while putting in much more money than the UAW and, at the same time, reordering the priority of property rights.

I hope people will begin to focus on this issue, and I hope our bankruptcy courts will stick with what is the order of the law and not the order of politics.

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

The PRESIDING OFFICER (Mr. BENNET). The clerk will call the roll.

The assistant bill clerk (Adam Gottlieb) 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.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 896, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 896) to prevent mortgage foreclosures and enhance mortgage credit availability.

Pending:

Dodd/Shelby amendment No. 1018, in the nature of a substitute.

Dodd (for Grassley/Baucus) modified amendment No. 1020 (to amendment No. 1018), to enhance the oversight authority of the Comptroller General of the United States with respect to expenditures under the Troubled Asset Relief Program.

Dodd (for Grassley/Baucus) modified amendment No. 1021 (to amendment No. 1018), to amend chapter 7 of title 31, United States Code, to provide the Comptroller General additional audit authorities relating to the Board of Governors of the Federal Reserve System.

Dodd (for Kerry) modified amendment No. 1036 (to amendment No. 1018), to protect the interests of bona fide tenants in the case of any foreclosure on any dwelling or residential real property.

Reed/Bond amendment No. 1040 (to amendment No. 1018), to amend the McKinney-Vento Homeless Assistance Act to reauthorize the act.

Casey amendment No. 1033 (to amendment No. 1018), 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.

Coburn amendment No. 1042 (to amendment No. 1040), to establish a pilot program for the expedited disposal of Federal real property.

Dodd (for Reed) modified amendment No. 1039 (to amendment No. 1018), to address impediments to liquidating warrants.

Dodd (for Boxer) amendment No. 1035 (to amendment No. 1018), to require notice to consumers when a mortgage loan has been sold, transferred, or assigned to a third party.

Dodd (for Schumer) modified amendment No. 1031 (to amendment No. 1018), to establish a multifamily mortgage resolution program.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I am going to read a unanimous consent request which will list a lot of numbers, but these numbers relate to Members and the various amendments being offered and the sequencing of them. I say to my colleagues, Senator REED from Rhode Island, Senator BOXER, Senator CASEY, and Senator GRASSLEY, that if they would like a minute to be heard, this consent request includes giving them a minute to address their amendment. That order is: Senator REED, Senator BOXER, Senator CASEY, and Senator GRASSLEY.

Mr. President, I ask unanimous consent that the order for votes be changed as follows and that votes occur in relation to the amendments covered under the previous agreement; that it be in order to consider and agree to the following amendments, en bloc, and that the motions to reconsider be laid upon the table, en bloc: amendment No. 1039, as modified, amendment No. 1035, amendment No. 1033, and amendment No. 1020; that a Member with an amendment being accepted be accorded a minute; further, that the vote sequence now be amendment No. 1036, as modified, amendment No. 1031, as modified, amendment No. 1042, amendment No. 1040, and amendment No. 1021, as modified; further, that the remaining provisions of the previous order remain in effect.

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

The four amendments are agreed to en bloc.

The amendments (Nos. 1039, as modified, 1035, 1033, and 1020) were agreed to.

The PRESIDING OFFICER. The Senator from Rhode Island is entitled to 1 minute.

AMENDMENT NO. 1039, AS MODIFIED

Mr. REED. Mr. President, I thank the chairman.

My amendment makes it very clear that when financial institutions repay their TARP funds, the Secretary of the Treasury is not required to liquidate or surrender the warrants. Warrants were issued to the Department of Treasury in conjunction with the capital injections under TARP. They are valuable financial instruments. They are separate from the TARP funds. I think it is the responsibility of the Secretary of the Treasury to balance many factors, but one factor they must consider is obtaining a substantial return for the taxpayers because of their investment of funds. This will allow him the discretion to do that. It will be an important way in which the Treasury Department can recoup some of the investments of the taxpayers in this program.

I thank the chairman.

Mr. DODD. Mr. President, I strongly endorse the Reed amendment. It is a very strong contribution to the bill. I commend him for it.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1035

Mrs. BOXER. Mr. President, I say thank you, particularly to Chairman DODD but also to Senator SHELBY, with whom I have discussed this amendment. It is very simple. It just says that if you have a mortgage on your home, you ought to know who holds that mortgage note. We say that if your mortgage is sold to someone else, the new party has to let you know who they are and how they can be contacted. This is very important. We have read stories where people cannot find out who holds their mortgage. Frankly, if you are in trouble and you want to renegotiate your mortgage, you need to sit down with the company that holds your note. That is all we do in this amendment.

I am very pleased. It seems like a no-brainer to me. Clearly, the law needs to be made explicit because, frankly, the people who hold the mortgages seem to go into hiding and you cannot find them when you want to find them.

Again, my deepest thanks. I appreciate it.

Mr. DODD. Mr. President, I thank Senator BOXER of California for this amendment. It is so reasonable, and yet so many people have had difficulty. Today, with the securitization of mortgages, that mortgage no longer stays at your bank for the length of that mortgage. Today, it is sold off very quickly. When homeowners want to