benefit from the fact it is broken. Similar to the bankers themselves, it seems a number of Republicans care more about making short-term gains than they do about doing what is right for this economy in the long run. Some details of this debate might be complex, but the different sides are as clear today as could be. On one side are consumers and investors, families and businesses and the vast majority of Americans who want us to make sure the financial crisis they just lived through can never happen again.

That is our goal. They knew there was no regulation, minimal regulation, and those people on Wall Street took advantage of that. They were betting on things that would make famous Nevada gamblers blush.

They don't want us to just talk about it, they want us to do something about it. We have to decide who is on whose side here, because we are ready to act. On one side are those who want to make sure we never have a situation like we had before. On the other side we have Wall Street bankers. They are doing pretty well. Two major Wall Street banks reported profits between them of about $7 billion last quarter. I don't begrudge them making money. That is good. People in our great free enterprise system can make money. I am just saying we have to have rules that don't allow them to cause another problem, as we had, which is second only to the Great Depression. Some say it is worse. These Wall Street bankers are sitting very comfortably. They see nothing wrong with a system that privatizes their gains and socializes their losses. They don't want us to change a thing. Let's decide that we, Democrats and Republicans, are on the side of consumers and investors, families and businesses, and the vast majority of Americans who want us to make sure the financial crisis they just lived through can never happen again.

Those who think this legislation is bailing out Wall Street should look at it again. Let's move forward in a bipartisan manner to get this bill done as quickly as possible, go to conference with the House, have the President sign the bill. The sooner we do that, the more stable our economy will be, not only here in America but worldwide.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling final half.

ORDER OF PROCEDURE

Mr. REID. Madam President, I ask unanimous consent that the time for morning business be 1 hour, that the fact that the Republican leader and I took extra time should not count, Republicans having the first half hour and the Democrats having the second half hour.

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

The Senator from Georgia.

MORTGAGE LENDING

Mr. ISAKSON. Madam President, I rise at a propitious time because the majority and minority leaders addressed the pending bill that is coming out of the Banking Committee and their desire for the bill to be one that is amendable and debatable.

I am here to talk specifically about one facet of the financial crisis and one improvement that is to be made by this bill that needs to be carefully addressed to make sure we don't repeat a mistake made in the 1990s with the failure of the S&L industry.

I have a chart with me. We have heard a lot about mortgages. We all know if it weren't for FHA, if it weren't for VA insurance, if it weren't for the Fed doing Freddie and Fannie a favor, there would not be much mortgage money available right now. It has all run away from the United States because of the subprime crisis and, in fact, because people are nervous about what happened in the financial markets with subprime securities. During this crisis we have been in, beginning in 2005 and going on until now, in my State of Georgia—these numbers are specific to Georgia, but Georgia is the tenth largest State—we see here that of the mortgages in default, totally in default or in foreclosure, it got as high as 8.2 percent on what I refer to as qualified mortgages. Those are mortgages that were made to creditworthy people who had good underwriting standards. Those were good mortgages. Up to 8.2 percent or 1 in 10 of those, at its apex, were either delinquent or pending foreclosure. But 24.7 percent were what is known as subprime or nonqualified loans and were either in mortgage delinquency or in default, 3 to 1.

The reason I show this chart is it demonstrates where the problem happened, not just on Wall Street but on Main Street; that is, in chasing higher yields, in pushing toward a desire for greater home ownership, credit standards got lax, and loans became nonqualified loans that carried a higher interest rate but a much higher risk. It is acknowledged by me and by most, in terms of the housing crisis we have been in, that the largest precipitating factor was shoddy underwriting, loose credit, and subprime mortgages. The legislation coming out of the Banking Committee is going to create something known as shared risk or lender liability in terms of the making of mortgage loans. I will be the first to tell my colleagues, I am not on the Banking Committee. I haven't seen the final draft. What I will address is what I hope will happen, not what I know will happen.

What I hope the committee will understand is, in its requirement for shared risk, being that the maker of a mortgage retain 25 percent of that mortgage for its lifetime or until it is paid, is the significant amount of capital that is asked for an institution to reserve and a possible amount for a mortgage broker or a mortgage banker but not for an institutional lender. The problem is, there are no institutional lenders like savings and loans anymore. One should revisit what happened with the savings and loan crisis, the Resolution Trust Corporation, and the failure that took place in the late 1980s and late 1990s. In America in the 1970s and 1980s, most of the mortgages made were made by lenders who didn't share the risk. They had 100 percent of the risk. They were savings and loan associations that took deposits, paid a preferential rate of interest over banks by regulatory design to attract the capital, and they held the mortgage in portfolio until it was paid. That is not shared risk. That is total risk.

What were our foreclosure rates in the 1970s and 1980s up until the end of the 1990s? Very marginal, 1 to 2 percent, certainly not 8.2 percent, certainly not 24.7. What happened, though, in the savings and loan industry is, No. 1, the Federal Government took away the interest preference to pay between banks and S&Ls so capital flowed out of the S&Ls. No. 2, because S&Ls then needed to make more money on the internal portfolio, the government allowed savings and loans to create service corporations, which were subsidiaries, to deviate from their original charter and, instead of just making home loans, allowed them to make commercial loans and, in fact, become developers.

What happened? What happened is history. We got off our mission, because we got off the risk. Because we took our eye off the ball, the savings and loan industry across America failed. Congress had to create the Resolution Trust Corporation to dispose of the bad assets around the country and we went through, up until now, the most severe recession we have ever been through. But this one is worse. This one is more pervasive. This one was caused by a lot of financial irregularities and poor oversight on our part, as well as greed on the part of many lenders. My hope is, when we start fixing things with regard to mortgages, we will recognize that shared risk is not going to solve any problem, if 100 percent risk didn't solve it in the late 1980s. What is going to solve the problem is for us to have reasonable standards of required underwriting that are an insulator from institutions making bad loans unless they take the risk.

I am suggesting that we define what is a qualified loan that would not be subject to shared risk and what is a loan that would be subject to it. For example, what would a qualified mortgage be? I was in this business for a long time. When I started in the business in the 1960s through mid-1980s, you could not borrow twice your annual income. You couldn't have a monthly payment higher than 25 percent of your take-home pay, and your total debts a year or longer could not exceed 33 percent of your gross income. That was reasonable underwriting. What were our foreclosure rates then: 2, 1.5, a high of 2.8 percent in the mid-1980s, but certainly not anything such as what we have in the 24.7 and the 8.2 percent.

What is a qualified loan is one that requires full documentation so you do have to have a job, so your boss verifies your job, so the credit agency actually verifies your credit so you actually have a downpayment, you don't have downpayment assistance or some ''now you see it, now you don't'' program—no interest-only loans. Everybody knows, you are not making an investment if you are not paying the debt service and only paying the principal. Interest-only loans were a bad idea whose time came and it went. It may be good for certain forms of commercial investment but not for residential.

No balloon payments. One of the biggest problems with these foreclosures was good people were loaned money with shoddy underwriting that had balloon payments in 3, 5, or 7 years. People didn't know what a balloon payment was. They thought it was something that flew in the air. A balloon payment is when the whole principle comes due all at once and you are subject to the ability to refinance. That is not a qualified loan; that is a high-risk game.

No negative amortization. That was a bad idea whose times came and went. Negative amortization meant you borrowed $100,000, but you made payments so at the end of the year you owed more, not less. That is a bad idea. That was predicated on rapid inflation or rapid appreciation which isn't always going to happen. And then requiring people to carry private mortgage insurance on their loans if they exceed 80 percent of the loan to value of the house, a normal underwriting standard until we got into the loosy-goosy time of the late 1990s and the decade of 2000 to 2010.

If we adopted in this legislation those parameters, to exempt lenders from shared participation, we would attract all the money like the good old days, then put the shared risk retention on those loans that are not well underwritten; make the mortgage broker or the investment banker hold 5 percent of an investment they sell because it didn't meet these qualifications, what would happen? They wouldn't do it, because they wouldn't hold the money. It would have prevented what has been alleged one of the brokerage houses did already. They would never short something and bet on it failing if they had a piece of it. They would only do it if you had a piece of it and they didn't.

It is important, when we get into this regulation or reregulation of the financial industry, that we also recognize we have some obligation to correct some of the mistakes the government made itself in the past that caused the problem in the S&Ls in the 1980s and with nonqualified mortgages in the 1990s.

What I am suggesting simply is, let's take those things that are tried and true, not things we think will work but things we know will work. Let's make them the gold standard. Let's make them the qualification for the attraction of money in mortgages to fund the homes of the American people. Then let's say to those who want to take a risky loan, let's say to those who want to have shoddy underwriting, let's say to those who want to make a quick return and get out before the dollar comes due, they will have to take the risk. Shared responsibility or shared risk is precisely right as an insurance policy to protect against that. But the unintended consequence of shared risk on a qualified, well underwritten loan is a higher interest rate for the consumer and less attraction of capital for individuals who form those loans to fund the housing purchases, which ultimately leads the government to do with Freddie and Fannie what it did before—force them to make loans they should not, force the government and taxpayers to be at risk in part on those loans and bring us back to another period like the S&L collapse or, later, like the financial market collapse of the last couple years. There will be another one in the future if we don't recognize the need to make qualified loans, well underwritten, do it as we did in the good old days when America flourished, foreclosure rates were low, and home ownership was within reach of 70 percent of the American people.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Madam President, I rise to talk about the same issue the Senator from Georgia has discussed. First, I congratulate him. This is a point we have been making on our side of the aisle. He has come up with a thoughtful and appropriate way to address what was one of the core drivers of our fiscal meltdown. If we look at what caused the financial crisis of late 2008, which has caused this significant recession, which has caused us to go through all these expenditures as a government and which has caused so many American people to suffer the consequences of the recession, there were three or four major events that generated this. One was money was too cheap for too long. That was a Federal Reserve decision. But right at the essence of it was the issue of underwriting, the fact that there was a decoupling of the people making the loan from the people who were responsible for the loan.

We had this whole service industry built up that was making money off of the fees for originating the loan and wasn't that concerned about the ability of the person to repay the loan or the underlying asset. What the Senator from Georgia pointed out—and the proposal he has brought forward is a very responsible way to address this fundamental problem, which is the failure of underwriting—is a point we have been making on our side of the aisle. We have a whole series of what we think are pretty good ideas as to how we can make financial reform work better. Certainly one of them is the idea of the Senator from Georgia.

I was impressed today to hear both leaders say they want to have a bill that is bipartisan, that is comprehensive, that is thoughtful, and that addresses the issues we confront in this regulatory arena.

Unfortunately, that is not the atmosphere around here that has been created. Regrettably, there has been a huge amount of hyperbole, especially in the last couple weeks. Most of it has not been directed at moving down the path of a thoughtful and mature and substantive approach to this issue. Most of it has been addressed at raising anecdotal events which then have been hyperbolized into single one-liners as to how you address them.

This issue of financial reform is far too complicated for one-liners. That is a fact. It is an extremely complex undertaking to make sure we accomplish what we need to accomplish in regulatory reform. Our goals should be two. First, we should do whatever we can to restructure the regulatory arena so we reduce, to the greatest extent possible, the potential of another systemic risk event. I will talk about what we need to do in that area in a second.

Second, while we are doing that, we have to make sure the regulatory environment we put in place keeps America as the best place in the world to create capital and get a loan for people who are willing to go out and take a risk, be entrepreneurs, and create jobs.

One of the great uniquenesses of our culture, what makes us different from so many other places in this world, what gives us such vibrance and energy as an economic engine, is that we have people who are willing to go out and take risks. We have people who are willing to be entrepreneurs. And we have a system of capital formation and credit which makes capital and credit readily available to those individuals at reasonable prices. So as we go down the road of regulatory reorganization, we have to make sure we do not suffocate that great strength of our Nation.

There are four basic issues before us today in regulatory reform, and none of them are partisan. Yet in the atmosphere around here, you would think they are all partisan, especially the

President's recent speech, which was over the top in its partisan dialog.

First is how you end too big to fail. We cannot allow a system to exist where there is a belief out there in the markets that the taxpayers are going to back up a company that has taken too many risks and has gotten itself in trouble. Why is that? Because if that happens, if there is a belief in the market that the taxpayers will step in and back up companies that are very large and systemic when they have taken too much risk and put themselves in dire economic straits—if there is a belief that the taxpayer is going to step up and back up that company—capital will get perverted. Capital will not be efficiently used. Capital will flow in an inefficient way to companies which have proved themselves not to be fiscally responsible. That is not a good way for an economy to function—certainly a market economy to function. So we have to end too big to fail.

This is not a partisan debate. Senator DODD has brought forward a bill which he thinks ends too big to fail. In my view, it has some serious flaws. It is a good attempt, but it does not get there. Senator CORKER and Senator WARNER, from two different parties, have actually put together a concept—we call it resolution authority around here—which actually does end too big to fail and does it the right way. It essentially says if a company, if an entity—which is a huge entity—gets out of whack, overextends itself, gets too much risk, is no longer viable, well, then, we are going to resolve that company. The stockholders will be wiped out, unsecured bondholders will be wiped out, and the company will basically flow into bankruptcy and will not be conserved. That is a good approach, and it is a bipartisan approach.

Another big issue: how you address regulatory oversight to try to anticipate a systemic event. Again, the Dodd bill makes an attempt in this area, but there are ways we can improve it. We need to have all the different regulators who have an important role in this sitting at a table, most likely led by the Fed, who take a look at the broad horizon of what is happening in the marketplace and saying: OK, in this area we have a problem arising. We have too many people doing too many things which are at the margin of responsibility here. We are going to empower the agency which is responsible for that—the FDIC or the OCC or one of the other regulatory agencies—to go out and make sure that activity ceases or is abated, and they are going to come back and report to us so you have some oversight here.

That is the concept. It can be fleshed out in better terms. It goes to this issue which is raised by the Senator from Georgia—we should have better underwriting standards as part of this exercise so in the marketplace, real estate especially—residential real estate—we get back to the approach we should have taken to begin with, which is that we know the asset value that is being lent to exists and that the person can pay the loan back as the loan is adjusted over the years.

Thirdly, we have the issue of derivatives. Derivatives are a huge part of the market—massive. The number is $600 trillion of notional value—something like that; massive numbers. What do they do? They basically make it possible for American companies especially to sell their products around the world or to take and put their products into the market in a way that they are able to address issues which they do not have control over.

For example, if you are Caterpillar equipment and you are selling something in China, you do not know if the currency value is going to change—well, you do with China; that is a bad example—if you are selling something in Brazil, you do not know if the currency value is going to change, you do not know if there is going to be a change in the cost of your materials you are building that tractor with, you do not know a lot of different factors you do not have control over. So derivatives allow you to ensure over that.

That is a simple statement of what derivatives do. But that goes to all sorts of different activities—from financial entities, all the way across the board to producers of goods. So there needs to be a regime put in place that makes these derivatives sounder, where we do not get an AIG type of situation where basically we are backing up what amounts to an insurance policy for a company with a name but actually no assets.

Senator JACK REED from Rhode Island and I have been working for months—literally months—on a daily basis to try to work out such a regime. We think we are pretty close. We think it is going to be a good proposal. Nobody is going to like it, which we know means it is going to be a good proposal. But it is going to accomplish what we need to do, which is to get more transparency and liquidity and margin in the market. There will be the opportunity to have end users who are exempt, but there will also be a primary incentive to put people on a clearinghouse. To the extent you can move from a clearinghouse to an exchange, that will happen also, without undermining the market.

But the key here is to put in place a regime which does not force companies to go overseas to do their derivative activity. This is a very fluid event. If we come forward with an overly regressive approach and an overly bureaucratic approach—one which basically responds to a hyperbole of the moment, which is that all derivatives are bad and not transparent and therefore must be put on exchanges, something like that—we are basically going to push offshore the vast amount of derivative activity that is critical to our industry in America being competitive. As a very practical matter, if we can develop a sound market—and we can develop a sound market—we want to be the nation where most people go to develop their derivatives because it is a big industry and it is something we should keep onshore.

The fourth issue: consumer protection.

My time is up?

The ACTING PRESIDENT pro tempore. The Senator has used 10 minutes.

Mr. GREGG. Madam President, I see the Senator from Louisiana wants to speak. But the point here is pretty obvious. This is not a partisan issue. We can resolve the issue of financial regulatory reform if we sit down and do it in a constructive, thoughtful way, step back, be mature, and take an approach that is thoughtful versus wrapped in hyperbole and popularism of the moment. I certainly hope we will take that process and go forward.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. VITTER. Madam President, I join my colleagues in urging the Senate to come together—Republicans and Democrats—around a strong bipartisan approach to financial regulatory reform. We need to address the critical causes behind the financial crisis of the last several years, and we need to do it right and in a bipartisan way.

Unfortunately, we are not on that path yet. The Dodd bill, which the President and Chairman DODD and others are trying to push to the floor, is a purely partisan approach and, unfortunately, it gets a lot of the bigger issues wrong.

First, and perhaps most importantly, the Dodd bill expands too big to fail. It does not end it. The Dodd bill ensures more future bailouts. It does not get rid of the need for bailouts. It is not just me saying that. As conservative an authority as Time magazine wrote a few weeks ago:

> Policy experts and economists from both ends of the political spectrum say the bill does little to end the problem of banks' becoming so big that the government is forced to bail them out when they stumble. Some say the proposed financial reform may even make the problem worse.

Another significant authority is Jeffrey Lacker. He is president of the Richmond Federal Reserve. He was interviewed by CNBC. The CNBC reporter said: Well, doesn't this bill allow all sorts of resolution? Isn't that ending too big to fail? He said, very clearly:

> It allows those things, but it does not require them.

That is the heart of the problem here: It allows those things, but it does not require them.

> Moreover, it provides tremendous discretion for the Treasury and FDIC to use that fund to buy assets from the failed firm, to guarantee liabilities of the failed firm, to buy liabilities of the failed firm. They can support creditors in the failed firm. They have a tremendous amount of discretion. And if they have the discretion, they are likely to be forced to use it in a crisis.

Exactly, precisely, what we saw in the last few years.

William Isaac, former FDIC Chairman, has echoed exactly the same concern:

> Nearly all of our political leaders agree that we must banish the ''too big to fail'' doctrine in banking, but neither the financial reform bill approved in the House nor the bill promoted by Senate Banking Committee Chairman Chris Dodd will eliminate it.

Finally, Simon Johnson, a respected MIT professor:

> Too big to fail is opposed by the right and the left, though not apparently by the people drafting legislation. The current financial reform bills are effectively a wash on the issue.

There are multiple sections in the Dodd bill that expand too big to fail: sections 113 and 114 essentially creating a ''too big to fail'' club; other sections creating a new permanent bailout slush fund; other sections allowing the bailout of creditors and codifying backdoor bailouts. That is a significant flaw in the bill—and not the only one.

My second big concern is that the Dodd bill creates a new all-powerful superbureaucracy with powers well beyond what is necessary to fix the problems that led to the last crisis. Again, there are several sections creating that new all-powerful bureaucracy. Perhaps the most significant one in my mind is one that subjects anybody who accepts four installment payments to the authority of this huge new bureaucracy.

I have four kids. Three are teenagers with braces. That is their orthodontist. That is the electronic store down the street. None of these folks were part of the problem that led to the financial crisis, but they sure accept four installment payments. We cannot pay for three sets of braces otherwise. This is a huge new superbureaucracy with enormous authority.

Finally, another big problem with the Dodd bill is it does nothing to fix other key causes of the crisis. For instance, it does nothing about Fannie Mae and Freddie Mac. We have a so-called comprehensive bill, with multiple titles, thousands—tens of thousands—of words, hundreds of pages, and the words ''Fannie Mae'' and ''Freddie Mac'' are never included, nowhere to be found. As Lawrence White, an economics professor, said:

> The silence on Fannie and Freddie is deafening. How can they look at themselves in the mirror every morning thinking that they have a regulatory reform bill and they are totally silent on Fannie and Freddie? It just boggles my mind.

And it boggles my mind as well.

Finally, nothing on lending standards, underwriting standards—exactly what Senator ISAKSON was talking about. The core fundamental problem behind the last financial crisis was that all sorts of loans were written that any reasonable person would know from the outset had no chance of making—the person getting the loan had no realistic chance of keeping up on that loan because there were no lending standards, no underwriting standards. An institution wanted to start the loan and sell it off and get it off its books and get quick profit for initiating the loan. The Dodd bill doesn't address that and doesn't create those lending standards we need to create.

So where is the change? We need change. We need real reform, but where is the change?

These are the top firms that got bailout funds from the taxpayers, hundreds of billions of dollars all told. This is the old regulator of those firms. This is the new regulator of those firms—exactly the same. The regulation of these entities doesn't change, doesn't move—exactly the same. Again, we need regulatory reform, but we need it zeroed in on the real problems, and we need a strong bipartisan approach, not a highly partisan approach.

Many of us think these are the basic principles of true regulatory reform: permanently ending bailouts and too big to fail, which the Dodd bill clearly does not do; ending all of the bailout authorities of the Federal Reserve and FDIC because if they still have those authorities, they will use them in the future; enhancing consumer protection without creating this huge new superbureaucracy that goes well beyond what is needed to address the causes of the crisis; creating greater transparency for derivatives while allowing businesses to manage risk, as Senator JUDD GREGG explained.

Begin to address Fannie Mae and Freddie Mac. Those were key causes of the crisis. There is no excuse for those four words to be completely left out of a so-called comprehensive reform bill.

Establish minimum lending standards for mortgages. That was a key cause of the crisis. It is ridiculous for that to not be addressed in a so-called comprehensive reform bill.

Increase competition for credit rating agencies. We saw significant problems there.

And dramatically improve coordination and communication among the regulators. This would be an approach targeted on the real problems, not a bill using the last financial crisis as an excuse to reach another preexisting agenda. This would be a bipartisan approach which the American people can support, and I hope this will become the outline of the approach the Senate adopts as we move forward.

Thank you, Madam President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. MERKLEY. Madam President, this morning I met a friend who is visiting, and he told me he was planning to go out and visit the FDR Memorial. I thought maybe the entire membership of the Senate should go out and visit the FDR Memorial.

Essentially, FDR did three things in response to the Great Depression: one was to create jobs, a second was to fix housing, and a third was to repair the banking system. All three were essential. We have been immersed in all three components now, responding to the great recession we experienced and the great explosion of the economy in 2008 that we are dealing with every day.

What did Roosevelt do in response to the banking challenge? Two main things: First, he made sure American families could safely put their money back into banks. That is the origination of the deposit insurance. Second, President Roosevelt made sure banks didn't engage in high-risk speculation that would put the banks and the American economy at risk because he understood the critical role of banks in lending to families and lending to small businesses, and the last thing one wants in a recession is to have investment houses making speculative investments go down and then take the banks down with them. So you compromise the lending to small businesses and to families at the same time that the investments go awry. That is why he separated those activities—highly risky investments separate from the lending that would continue to fuel our economy.

Well, because of these regulations in the Roosevelt administration, the wages of American families grew steadily right alongside the productivity of our economy. Our economy was thriving and our middle class was thriving. Indeed, we should judge the success of our economy not by the gross domestic product, not by the size of the bonuses in boardrooms on Wall Street; we should judge the success of our economy by the living wages paid to working families and whether those wages are keeping pace with productivity our workers are bringing to the economy. By that standard, we are not doing well.

By the 1980s and 1990s, Wall Street convinced Washington that we don't need those Roosevelt-era regulations anymore, we don't need those walls that protect lending from high-risk investing. Instead of having oversight and accountability, we should just let Wall Street make their own rules. This is a little bit like a traffic system in which we say we are kind of tired of those traffic lights. We don't really like those stop signs and lane markers. It is a waste of paint. We can do without them. For a short time, everybody can just kind of speed down the road and not worry about any rules to abide by until shortly thereafter when everyone crashes.

That is exactly what happened in our financial system over this last decade. The SEC took down the leverage limits. The five largest investment banks were told to set their leverage wherever they wanted. We had Bear Stearns in a single year going from leverage of 21 to 41. So for every dollar they were investing, they were betting $20 by the start of the year, but by the end of the year, as the SEC granted them permission, for every dollar they held, they were betting $40. They make a tremendous amount of money on the way up when they can bet $40 for every dollar they hold, but they crash in a spectacular fashion when the market goes down in that situation.

Then, again, we had the Fed. The Fed puts monetary policy in the penthouse and safety and soundness on the upper floors. But what do they do with their responsibility for consumer protection? They put it down in the basement and they seal the doors. They let no daylight in and they let little communication occur between the consumer protection side and the safety and soundness and the monetary side.

They did absolutely nothing when a new product was invented in 2003, a new form of subprime that had a 2-year teaser rate, a prepayment penalty that locked the family into that loan and prevented the family from escaping from that loan, and that had exploding interest rates that would destroy the family. The Fed did absolutely nothing. Then Wall Street said: You know what. These loans are worth so much because we can pull so much money out of families with these loans, so we are going to pay a bonus to a broker if the broker ties a family into one of these loans. And those steering payments resulted in tons of families who qualified for prime mortgages being steered into subprime mortgages. By a Wall Street Journal study, 60 percent of families who were in subprime mortgages qualified for prime mortgages, but their broker persuaded them that the best mortgage was one that was not in their best interests.

Then we had the rating agencies. The rating agencies had magic all their own. They didn't develop their own models to evaluate BBB bonds that were mixed and sliced and diced into new packages of bonds. No. They took their models from Wall Street, and based on those models they said: If you take BBB bonds from over here and BBB bonds from over here and you mix them together, we will rate 80 percent of the resulting bonds as AAA. Well, that is a money-making machine, but it also undermined one of the key instruments the financial world depends on; that is, accurate credit ratings.

Then we had lots of tricks and traps buried in the small print, stripping families of their capital. Things were happening in the credit card industry such as sitting on a person's payment for 10 days even though it had arrived on time, sitting on it for 10 days and then posting it as late and charging a late fee. As a constituent from Salem said to me, where is the fairness in that? American citizens are saying time and time again, when clauses written in the fine print defy fundamental fairness, where is the fairness in this?

So at every level we had a breakdown in our financial system. We know what happened. The deck was stacked against the ordinary citizen. It turned a banking system that is designed to help families, strengthen families, strengthen small businesses into a casino for Wall Street's big bets. When those bets went bad, the taxpayers—you and I—were left holding the bag.

Now, as the effort to restore fair rules of the road to Wall Street heats up here on the floor of the Senate, there are those on Wall Street and those on this floor who want to block reform. They don't want to fix any of these things I have been describing. Indeed, recently the minority leader met with more than two dozen Wall Street executives and hedge fund managers and urged them to elect members of his party who would stop these reforms that serve the American people. Then he came back down here and he whipped out his talking points from Frank Luntz and he said: This bill won't work. Why did he say that? Because he doesn't want a bill to reform Wall Street and fix these rules and restore prosperity to our economy. He wants to take this election year instead and serve a powerful constituency that doesn't want any rules restored to the road.

Folks, that is just wrong. We have a responsibility. Just as our ancestors not so long ago fixed the problems of the Great Depression, fixed the banking system, and restored a banking system that would take us forward in an orderly fashion and allow business to thrive in America, to be the envy of the world in America, we have the responsibility to do that today.

There are some who have said: Well, we want a free market. Let me tell my colleagues, a free market thrives with rules that allow orderly conduct because those rules create the integrity that gives people the faith to utilize those markets. We saw with the stock market reforms that people believe stocks are traded fairly in America, and therefore they are willing to invest and, by investing, power up the companies that are issuing public stock. It works when there is integrity in the market. Foreign investors will come and put their dollars in America if they believe there is integrity in our system.

That is what these rules are about—rules that create a free market with integrity so that it can power up the economy of America. That is what this is about. We are not talking about what some of my colleagues across the aisle are talking about: preserving the status quo, which means freedom from oversight, freedom from accountability, freedom to translate BBB bonds and AAA bonds with a magic evaluation system; free to blow up the economy, which destroyed families' savings, families' retirements, families' jobs, often families' health care, and pretty much tore the foundation out from under the American working family.

This bill creates a consumer financial agency that will say: No more trips and traps on basic financial products. We need to have that mission no longer locked in the basement. We need to have that mission in an agency that says we will not allow those tricks and traps and scams that have been perpetuated over the last decade, so that Americans will not say: Where is the fairness in that? Instead, they will say: Thank goodness these contracts are fair and serving our families and our economy.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator has spoken for 10 minutes.

Mr. MERKLEY. Is that my full allocation of time?

The PRESIDING OFFICER. Yes.

Mr. MERKLEY. Thank you. I will close by saying this bill must get done because we have a responsibility to restore the foundations for our Nation.

I yield the floor.

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

Mr. WHITEHOUSE. Mr. President, let me first thank the Senator from Oregon for his remarks. He has brought great passion for this issue to the Senate. He serves with distinction on the Banking Committee. I couldn't agree with him more that the spectacle of colleagues scampering up to Wall Street to offer their services, and interfering with, obstructing, watering down, and impeding, of all things financial regulatory reform, after all we have been through, is not a spectacle that is salutary.

I appreciate his remarks.

NOMINATIONS AND HOLDS

Mr. WHITEHOUSE. Mr. President, I wish to talk for a minute about nominations and holds. The Senate's Executive Calendar contains the names of those individuals whom President Obama has nominated to serve in his administration, and those positions require Senate confirmation. The Executive Calendar also contains the names of those the President has nominated to be Federal judges—it is called the Executive Calendar, but judicial offices are on it as well—at the district court level and the appellate level.

Since President Obama took office, this Senate has voted on 44 nominees. Some others have been approved by unanimous consent, but we have had 44 votes on nominations. Of those 44 votes, 31 of them—that is 70 percent of the nominees we have confirmed—have been held over, filibustered, and delayed by days, weeks, and months. The average length of time these nominations have languished in the Senate has been over 106 days. That is 15 weeks—3½ months—from the time they were nominated to the time they were confirmed. That is just the average delay. Some have spent 1 full year in Senate limbo as a result of holds by our colleagues.

If it has taken this long to confirm them, these must have been controversial nominees, and these must have been tough votes and close votes for the Senate, one would think. Well, let's take a look—bearing in mind that it takes 51 votes to be confirmed by the Senate.