on Wall Street or some scam artist on Wall Street, they have very few options. But the big banks have lots of options.

This is not just about what is fair and what is right and making sure we have competition in our banking system. It is more than that. It is about a gross disparity of power residing on Wall Street and injuring the ability of people just to make ends meet, just to have a job, or just to be able to borrow money in a way that will allow them to purchase a house or do something else in their lives.

What this means is, despite offering better and cheaper consumer products, our community banks at the local level are struggling to get by, while their big brothers, their megabank brothers are on Wall Street making more money than we can even compute or comprehend. The community banks, which used to be the foundation of our system and the place where people could go to borrow, are having trouble, are struggling to get by.

One of the ways to confront this is not just to pass a bill that sounds good here and there and looks like reform but to have a final product after debate. Again, I hope our friends will get to the point of debating this bill. It makes sense that if something is very important and the American people say do something about it, you ought to debate it and pass it—just a little free advice to the other side.

But we have to do more than just pass something; we have to pass something that works. We have to pass something that will be meaningful in the lives of real people. If we allow these megabanks to retain their power and their influence and their wealth, to the detriment of working families, small businesses, and our economy in general—if we allow them to have that power, it will be nice to pass a bill, but we will not be getting to the root cause or one of the root causes of our problem.

That is why I and Senator KAUFMAN, Senator BROWN, and others are supporting the SAFE Banking Act. I thank those two Senators for their work on this over a long period of time. This will be an amendment to the act we are working on, the Restoring Financial Stability Act of 2010. This part of it, this will be a new element to it if we can get the amendment agreed to—I think we can—to the SAFE Banking Act. This is what it will do—basically, four things. I will go through them quickly. First of all, impose a 10-percent cap on any bank share of the total deposits of government-backed depository institutions, so placing a cap on that. Place a 2-percent-of-GDP limit on all nondeposit liabilities, so limiting and circumscribing what these megabanks can do. Third, place a 3-percent-of-GDP limit on all nondeposit liabilities, including any off-balance-sheet provisions as well as any systemically significant nonbank financial institution. Fourth, we would put into law a 6-percent leverage limit for bank holding companies and selected nonbank financial institutions.

So instead of leaving size limitations in the hands of regulators—and I know regulators work hard and they always try to do the right thing in almost every instance—this amendment would at long last put some clearly defined rules in place about the size and the leverage of financial institutions. We can't just say: OK, megabank, you can do whatever you want, you can get bigger and do whatever you want, and after the fact we will have some regulators try to mitigate the damage you are causing or try to rein you in a little bit. Sometimes that works, but our recent history tells us it is not going to work the way it should. So we need some clearly defined rules that apply to these megabanks and would only impact a handful of institutions, a very small number of institutions—these large megabanks that are at the heart of the problem.

The alternative to placing these limitations on the big banks, on their size and the leverage they have, is a continuation of the system we have right now, the so-called too-big-to-fail system. So a bank gets so big and has so many tentacles out into our economy and across the world that we say: Gosh, if they are in trouble, we can't let them go. They are too big and have too much of an impact if they fail. We have to help them.

In addition to passing a law that ends bailouts, we also have to end this too big to fail. It is kind of a straitjacket our system has been in: it does not allow us much freedom, but it gives a soft landing to a lot of these megabanks that really should be cut down in size. We know we need to change that.

I commend the efforts to increase the ability of regulators to oversee and enforce discipline, but candidly—and I think our history shows this—it is not enough. It is not enough to just give regulators more power or more resources. We need to pull apart or deconstruct in some measure these megabanks because they are too big, too powerful, and they have caused too much damage. Having a regulatory system in place will not be enough. That is why we need the SAFE Banking Act.

We also need to take other steps to address this root cause as well as other root causes. We know community banks are banks that are better for families and for small businesses—the two parts of our society, the two parts of our economy, our families and our small businesses. They are saying to us: Do something that is real. Do something that not only makes sense in terms of policy but will help at the local level in terms of improving our economy.

So more banks mean more competition, and they also mean more customer-friendly products. It also means more loans for small businesses that get them from community banks and will continue to if we do the right thing. It means a retail banking system that more closely resembles our Nation's community banks than the Wall Street model that has indeed failed us—and that is an understatement—and failed us significantly.

So that is why I encourage my colleagues on both sides of the aisle to support the SAFE Act amendment to our financial reform legislation. It is about that we took a step that has real meaning and real impact on one of the biggest problems we have in America, where you have megabanks that are doing quite well, and if we allow them to continue to do well, they will have a few individuals in a few institutions across America who will benefit from that.

But most of the rest of us, most people, especially those out of work, most small businesses, will not benefit from these megabanks. We need to change this, and we need to do it in the course of this debate.

I would once again say to my colleagues, if we debate it, it will tell us very clearly whose side we are on. If you continue to hold up debate, I think the American people know whose side you are on. It is not their side.

I ask unanimous consent that any time in quorum calls on the motion to proceed to S. 3217 during today's session be divided equally between both sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 3217

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that any time spent in quorum calls on the motion to proceed to S. 3217 during today's session be divided equally between both sides.

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

Mr. BROWN of Ohio. I thank the Chair.

RECESS

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

Thereupon, the Senate, at 12:33 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I wanted to rise to speak further about this financial reform bill. Yesterday, I talked at some length about the problems I saw with the bill relative to section 106 in the derivatives language. Today, I want to talk about things that are not in the bill that should have been in the bill.

The reason I am rising to talk about this bill, which is a very complex bill, and intricate, is because we on our side feel very strongly that we should be involved in the negotiations of a better bill. We are not asking that there be no bill; just the opposite. We are saying there is a lot in this bill that just plain needs to be improved.

For example, in the area of too big to fail, we have to make absolutely sure, if a company is large and it gets into trouble and it overextends itself, that it fails; that the American taxpayer doesn't come in and support that company in the financial sector, or anybody else, as a matter of fact, such as the automobile sector. So that language in the bill needs to be tightened up. It doesn't accomplish that as effectively as we think it should.

The derivatives language has some serious problems. I talked yesterday about one of them, but there are a whole series of problems. The purpose of the derivatives part of this bill should be, No. 1, to reduce systemic risk and make sure that, prospectively, we do everything we can to make these instruments—which are critical to the ability of the economy to be liquid and produce credit—are as safe and as sound as possible, while at the same time making sure we do not overreact and create a situation where this market—which is so crucial to manufacturers across this country and especially to Main Street, which basically benefits from the credit generated by derivatives—doesn't artificially contract due to excessive regulation, or that it doesn't go overseas. So we lose the fact that we are today at the center of capital and credit. We want to be the best place in the world to create capital and to create credit, and we should have a bill that accomplishes that.

I have been outlining concerns I have in the derivatives area—yesterday I talked about section 106—and I could highlight a number of other areas. For example, the immediacy with which derivatives are pushed from a clearinghouse into an exchange situation, which I don't think will work under this bill. I think, basically, it would contract the market dramatically.

But what I want to speak to specifically are the things left out of this bill that should be addressed in order to make sure we don't have happen again what happened in September of 2008 and on into the rest of that year, which was that tremendous trauma that our Nation went through and is just now coming out of—and for some people it is still a trauma because they don't have a job, which is the worst trauma of all for somebody. That trauma was caused by some very distinct and specific events that occurred, and a lot of them were the responsibility of the Congress.

If we want to look for who is the cause of the downturn and the crisis in the subprime market, we can look at ourselves in the mirror and say: We are, to a large degree. Easy money was also a problem. But I think right at the center of the problem was the collapse of underwriting standards in this country.

It used to be, up through the 1990s, you couldn't get a loan for much more than 85 percent of the value of the home. You had to put some money down, and you had to be able to show to the person who was lending you the money—the mortgagor—that you could pay the money back. Well, we went into this huge expansion in lending which was driven in large part by two things: One, the monetary policy of the Fed, which basically allowed for easy money to flow out there very quickly into the market; and, secondly, the Congress, specifically insisting everybody should be able to have a home whether they could afford it or not or whether the home was properly valued. Those two factors lead to an explosion in home ownership, equally leading to an explosion in mortgages which, first, did not meet the value of the underlying asset and, in fact, in some instances were actually valued at more than the asset even at the time they were issued.

Almost all these subprime mortgages presumed there would always be an appreciation of real estate prices, so they could loan at 100 percent and at some point you would be down to 85 percent or 90 percent of the value. That didn't happen, of course. The value went down, and so the mortgages went underwater in terms of their basic value. Secondly, the monies were lent to individuals who, because of the way they structured these loans for the first 2 or 3 years, could pay the interest or the mortgage payment, but as soon as these loans reset to a realistic interest rate, they couldn't pay it. Everybody knew it when they did the loan.

Now, why did people do that? Why was there this collapse in underwriting standards? Well, there were a lot of reasons. I happen to think probably the primary one was that we separated the owner of the loan from the actual loanmaking process. Therefore, the people who were originating the loans weren't interested in the underlying security. They were not even interested in whether the person could pay it back. They were only interested in the fees they were generating. So we had a collapse in the underwriting standards. We had an inverted pyramid, with this person down here borrowing money from this entity over here on a piece of property which wasn't worth the value at which money was being borrowed. The person borrowing the money couldn't pay it back, but nobody cared because that loan was then taken and sold and securitized and subdivided and syndicated and sometimes put into a synthetic instrument, or had a synthetic instrument mirroring it. So we had this loan down here, and this massive structure from the churning of that loan on top of it, and the loan wouldn't support all that structure over it. So it all collapsed on us in late 2008.

This bill, however, doesn't address that issue of underwriting standards in any effective way. Senator ISAKSON and I have spoken about this on the Senate floor a number of times, and we are going to offer what we hope is a bipartisan proposal. But it will improve the bill because it will basically be taking us back to the underwriting standards that used to be in place in the 1990s, not only for the origination of the loan but also for the securitizer of the loan. This is critical. If we are going to fix this problem—and the purpose of the bill should be to fix the problem that created the crisis and make sure it doesn't occur again—if that is the real goal, then there should be underwriting standards.

The second issue in this bill that is not addressed is Fannie and Freddie. These two entities have trillions of dollars of outstanding liability, outstanding notes, and it is estimated that the taxpayer has a $400 billion to $500 billion—that is $½ trillion—of liability because a lot of these notes aren't ever going to be paid back. Yet Fannie and Freddie are still operating almost in a business-as-usual mindset, pushing money out the door, buying up bonds and notes and mortgages, and doing it almost as if there is no end to the taxpayers' pocketbook.

In fact, we don't even put Fannie and Freddie on the Federal balance sheet. We know, since we own 80 percent of those companies that the taxpayer is on the hook for this debt—this $400 billion to $500 billion of debt. This bill acts as if it doesn't even exist, and yet that was one of the primary drivers of the economic collapse of 2008, from which we are all suffering and have suffered. So this bill should have at least an initial step into the arena of how we are going to handle this issue of straightening out the GSEs, as they are called.

The first step is that we ought to bring their liabilities onto our books so that the taxpayers aren't being lied to; so that we are telling the truth to the American people as to how much it will cost to straighten this out and we have started thinking about how we are going to straighten it out. Yet this bill doesn't do that. That is a place where we, as Republicans—and I think a lot of other people—would like to see this bill improved, and that is why we are opposing going forward with the bill in its present form until we are allowed to participate in the negotiations on improving it. That is what this is all about.

The third issue, of course, is the credit rating agencies. We know without any question that the credit rating agencies failed miserably, and people relied on their information, their credit rating of varied securities. That is one of the primary reasons people were willing to buy a lot of the instruments that were floating around. They believed, generally, when the credit rating agency said it was a triple-A rated security, that they had done their due diligence and it was a triple-A rated security. It turned out it wasn't, in many instances.

As a result, it was sloppy underwriting again, by people or financial houses that were willing to buy these securitized products, the CDOs and various other products. They didn't do the heavy lifting of everyone going and looking at the actual assets which were backing up these products. They relied on the rating agencies, and the rating agencies didn't do their job either.

So we have this serious issue with rating agencies that needs to be addressed. It is not effectively addressed in this bill. But we cannot correct the problems which created the 2008 crisis and caused this very severe recession and put this country through this tremendous trauma unless we address that issue, along with underwriting standards, GSEs, and credit rating agencies. So Republicans are saying: Let's look at that and try to fix that. That is why we don't want to go forward until we are brought to the table and allowed to address that issue.

Another question: They have filled this bill with all sorts of extraneous things that had absolutely nothing to do—absolutely nothing to do—with the housing crisis and the economic meltdown that followed. A lot of corporate governance rules that have been kicking around this city for a long time and that are the agenda of certain groups in this city that have a political agenda dealing with wanting to have control over corporations—a lot of it influenced by organized labor—have been thrown into this bill willy-nilly. They had nothing, and they have nothing, to do with the overarching issues that affect protecting the market and making and giving us a sound financial system. Yet they are in this bill. They shouldn't be in this bill or, if they are going to be in the bill, they should be significantly adjusted.

So these are some of our concerns. People ask: Well, why are the Republicans stopping this bill at this point? Because we want a better bill, and we have specific proposals for accomplishing that. We want language which does accomplish too big to fail and ends that policy. We want language which makes the derivative market not only safe and not a systemic risk but a sound and strong force for credit in this country. We want language which addresses better underwriting standards. We want language which addresses the issues of the GSEs. And we want language which addresses the failures of the credit rating agencies. We don't want a lot of extraneous language which is simply brought along because the train was leaving the station and it was thrown on it, and which, in many instances, in my mind at least, undermines rather than becomes a constructive force for a better financial system in this country.

So those are our concerns, and that is why we are continuing to insist that we be allowed to be at the table to negotiate these very critical issues on this very complicated bill.

I thank the Senator from North Dakota for showing me the courtesy of allowing me to go first, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

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

Mr. DORGAN. Mr. President, change is very hard in this country and in this Chamber. Change is always hard. I was thinking, as we have been blocked from proceeding on the Wall Street reform bill, which is a very important issue, about what probably was the case on another big change at the turn of the last century, when Upton Sinclair wrote about the meatpacking houses in this country.

He wrote a book called ''The Jungle'' and described his visit to the meatpacking houses in Chicago and the unbelievably unsanitary conditions in those meatpacking houses—rats all around those meatpacking houses. But that was all right because they poisoned the rats. They took loaves of bread and soaked them in poison, laid them around and then there were dead rats and all the other things that existed in those meatpacking houses that went down the same chute, and out the back side came meat right to the grocery store and to the American people, an unsuspecting public—the most unsanitary conditions in the world.

As a result of publishing the book, ''The Jungle,'' there was a public outcry demanding that something be done. The Congress finally, at last, at long last, beat back the opposition of a very strong meatpacking industry and passed safe food laws, creating the Food and Drug Administration. Change is so very hard. But people knew then something had to be done about that, and the American people know now something has to be done about this.

It is interesting to hear people come to the floor of the Senate and say: Well, we are blocking a motion to proceed to go to a Wall Street reform bill because we want to make it better. Does anybody really believe that? They want to weaken it. They do not even want it in the first place, to the extent they can avoid it. That is why they didn't do anything in the committee. There were negotiations for weeks in the Banking Committee. I was not there, but I am told by all involved there were negotiations for weeks in the Banking Committee. Then they had a markup, and the Republicans didn't offer one suggestion.

If they have a whole backpack full of suggestions on how to improve the bill, why was there not one amendment offered in the committee? So now we have the spectacle of the desperate need for reforming Wall Street finance in this country and the entire Republican caucus in the Senate votes no—every single one of them.

Well, let me describe what we are facing, if I might. This economic collapse is not a stranger to most Americans. Somewhere around 15 or 16 million got out of bed this morning jobless, looking for work and can't find work. They understand the cost of this economic collapse.

Here is what it has cost the taxpayer. By the way, we don't have all these numbers. This was from an enterprising reporter at Bloomberg who did good work. But the Federal Reserve bailout commitment, $7.8 trillion; FDIC, $2 trillion; Treasury, $2.7 trillion; HUD, $300 billion—that is $12.8 trillion, think about that, the amount of money lent, spent or committed on behalf of the American taxpayer to try to get out of this deep hole.

Even as we found ourselves in this deep hole—here, by the way, is what has happened to the biggest financial institutions in the country. Going back 10 years ago, the Congress decided—in my judgment without any wisdom at all because I voted against it—to say let's homogenize all our big financial institutions. Congress said let's put them all in one big basket, investment banks, FDIC-insured banks, real estate, securities, throw them all into one big old holding company and things will be great. It will allow us to compete with the Europeans and others much better.

They created these giant houses of cards. This is what happened the largest financial institutions in the country got bigger and bigger. In fact, that is what has happened even during this collapse. Even in the greatest recession since the Great Depression they have continued to grow.

Let me again describe some of the origin of this, this cesspool of greed that has existed in recent years, resulting in one person—I have talked about him in the past—making $3.6 billion in just one year, betting against America, selling short.

By the way, if you are wondering, that is $300 million a month or, if this person's spouse asks: How are we doing, sweetheart, he can say we made $10 million a day every single day.

This is on the Internet right now and this is the origin of all this greed. It goes up from here, to a security, to a hedge fund, to an investment bank, and they are all making obscene profits right on up through the collapse. By the way, they are doing it again today. This is on the Internet. This is a company called EasyLoanForYou:

> Get the loan you seek fast and hassle-free. Our lenders will approve your loan immediately regardless of your credit score or history.

You need a loan? It doesn't matter how bad your credit is. Here is one on the Internet. SpeedyBadCreditLoans. It says: Bad credit, no problem. No credit, no problem.

How about bankruptcy? That is not a problem either. Come to us, ''Get a guaranteed bad credit personal loan today.''

Yes, this is on the Internet today. Bad Credit Personal Loans, ''a Christian Faith Based Service.''

Previous bankruptcy? That is all right. No credit, bad credit, recent divorce, need more money? No problem.

This is the origin of what was going on in this country and it is still going on. By the way, you don't have to make interest payments or principal payments for the first 12 months, we will make them for you, and you don't have to document your income to us.

We wallpapered this country with this sort of nonsense, fundamentally ignorant banking practices, and then turned them into securities and sold them up, up, up the chain. The fact is, everybody was making big fees. The rating companies were with their pompoms, approving everything with AAA. Meanwhile, they were creating an entire house of cards. Unbelievable.

Today, there is a hearing going on and one of the largest investment banks is under siege at that hearing because our friend, Senator CARL LEVIN, actually has the goods. He has the memos, the internal memos. He subpoenaed them. It shows that investment banking company is making record profits now but actually was betting against its customers, was actually selling short, betting against the American economy. So the question is, When all that was going sour and the American taxpayers were told these companies that are doing that are too big to fail, that we have a moral hazard here, we have systemic risk with grave consequences to this economy and therefore the American taxpayer has to be told you bail them out. The Federal Reserve, on behalf of the American taxpayer, decides we are going to provide unlimited funding and unlimited money and a new loan window for the first time in history to investment banks. Then we go to the Fed and say: How much did you actually put out there? And they say: You have no business knowing. We don't intend to tell you, and we don't intend to tell the American people. That is where we find ourselves right now. It is unbelievable.

There is an old country saying: The water is not going to clear up until you get the hogs out of the creek.

This issue we are trying to get to the floor of the Senate on a motion to proceed so we can actually do Wall Street reform is all about getting the hogs out of the creek. But we will vote again today at 4:30—I believe it is 4:30. We voted yesterday. We will vote, I suppose, tomorrow. Every single Republican has said we don't intend to even allow you to proceed because we want to strengthen the bill. Really? When two of the top Republicans go to Wall Street about 19 days ago to meet with two dozen Wall Street executives in a closed session and then come back and say we are going to stop Wall Street reform because we want to strengthen it—I don't think so. It doesn't sound to me like that is the case.

If you want to strengthen it, I say to my colleagues—you say it is not strong enough in too big to fail—I am going to be offering an amendment on ending too big to fail. But you can't offer an amendment unless you get the motion to proceed to get the bill on the floor. But I am wondering how many Republican votes I will get for an amendment that says if you are too big to fail, if you pose a moral hazard, systemic risk with grave consequences to our economy, it seems to me we should back you away through divestitures to a point where you are not causing that moral hazard, if that is the case.

Those who say they are trying to strengthen this bill—and I doubt it—I wonder if they will join me on that.

They come to the floor and say: We haven't had a chance to negotiate or discuss this, when, in fact, there were negotiations for months in the Senate Banking Committee, and before that there were hearings that went on for a year in the Senate Banking Committee. When they finally got to the point of writing the bill, the Republicans decided we don't have one suggestion for an amendment, not one, not any. Now they are saying: We are going to take a stand. We are not going to even allow the Senate to consider Wall Street reform because we think it needs to be improved. Oh, really? I think they think it is too strong. I think they have a lot of friends who want them to weaken it. That is my belief.

The question is, Will we be able to see, at some point, perhaps at long last, the other side stop making excuses and allow us to begin legislating? Is there any American who has suffered the consequences of this deep decline in our economy, the deepest decline since the Great Depression—is there any American who says: You know what. Hands off the big investment banks. Hands off the big finance companies. Yes, we know they were trading things we don't understand. They were trading things such as credit default swaps that were naked.

I asked the other day: How did that get naked? A credit default swap that is naked means it has no insurable interest in any case on either side. It is not investing, it is simply waging. I said before: Why pretend? Why not put a keno pit or a craps table in the lobby of those institutions because all it is, is making wagers or bets.

We have a couple of very large communities and many other areas of America where you can do that, Las Vegas and Atlantic City. But in the last decade, and especially with the growth of these unbelievably exotic instruments, we have seen that happening increasingly in the lobbies of some of America's biggest financial institutions because they have decided, if they bet and lose, at least the record is the American taxpayer going to be standing behind them to pick up the tab.

No more. The legislation brought to us by Senator DODD and Senator LINCOLN dealing with financial reform and derivatives is not perfect. Senator DODD is on the floor. He would be the first to say that. But none of us can offer any amendments unless we have a motion to proceed to get to the bill. I think the work done by Senator DODD and the Banking Committee is work that needs to be commended. It stretches my imagination, and I think others', for the excuse for voting against the motion to proceed to allow us to get to the floor on this and actually have a debate and offer amendments, to allow as an excuse that the other side truly wants to strengthen this.

You know what. We are going to get to the bill at some point, somehow, over the opposition of a determined minority that wants to protect Wall Street's interests here. Even as we are holding these hearings today and discovering some pretty pathetic behavior on behalf of some big economic players, we are going to get to this bill. When we do, we will see who is on the floor of the Senate on the side of the American people. We will see who truly wants Wall Street reform that does the right thing.

There are many things we need to do. Let me just say I mentioned too big to fail—I am going to introduce an amendment that bans naked credit default swaps that have no insurable interest. Again, that is betting, not investing. So there are a lot of things for us to do, but we cannot even begin to do that until we get a motion to proceed, and we would expect, perhaps even by accident, we would get one vote or perhaps two votes on the other side. We will see. Maybe this afternoon will be the time.

The American people deserve much better. As I said when I started, I know that change is hard and big change is exceedingly hard. But this is a big issue. This isn't some small potatoes. This is trillions and trillions of dollars. The American people lost $15 trillion in wealth when the economy hit rock bottom. So they require us, they demand of this Congress to take action—not to take action just for the sake of having done something but to take action for the sake of fixing this, to make sure this sort of nonsense and behavior cannot ever happen again in a way that threatens this country's economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, let me begin by commending my friend from North Dakota, expressing my agreement of virtually everything he said. I also commend Senator DODD for the very hard work he has done in bringing forth a very strong piece of Wall Street reform legislation which is long overdue.

Let me also say that my good friend and neighbor from New Hampshire, Senator GREGG, took to the floor yesterday to express his outrage that 10 Senators on the Budget Committee voted for an amendment I offered—which lost, by the way, 12 to 10—to begin the process of breaking up too-big-to-fail financial institutions that pose a catastrophic risk to our economy. Frankly, after listening to Senator GREGG's statement, I wonder, with all due sincerity, what planet he is living on. Apparently, he has missed the fact that due to the greed, the recklessness, and the illegal behavior of Wall Street, the American people continue to suffer through the worst economic crisis since the Great Depression. The damage done by Wall Street in bringing this economy to a grinding halt is incomprehensible—millions of people having lost jobs, their homes, their savings, young people trying to go out into the job market to begin a career in their lives unable to do that because of the greed of Wall Street. The fact that just yesterday we could not get one Republican vote to proceed to begin the debate on how we finally reform Wall Street is beyond my comprehension. This debate needs to be going forward, and we need to pass strong—underline ''strong''—legislation that makes sure that what happened a year and a half ago never, ever happens again.

I also find it interesting that we have some of our conservative Republican Senators, such as Senator GREGG, who day after day tell us how much they dislike big government—they don't like Social Security, don't like Medicare, don't like big government—but apparently have no problem with huge financial institutions which control a very significant part of our economy. In the last 15 years, the six largest banks in this country have more than tripled in size and now have combined assets equal to 63 percent of the gross domestic product. Let me say that again. The six largest banks in this country now have combined assets equal to 63 percent of this Nation's GDP.

I ask all my conservative friends who come down saying: Oh, government is too big, government is awful, what about banks that have trillions of dollars in assets? Why aren't we talking about that reality? The truth is that today what we are seeing with these huge financial institutions is not only the ongoing problem of what happens when they fail and whether the taxpayers will be having to bail them out again, but when you have that kind of concentration of ownership, you have a very dangerous situation.

The four largest banks in this country, four banks, issue two-thirds of the credit cards. What do we think about that? Everyone in the world has a credit card. Four banks issue two-thirds of that.

How does that tally with the rhetoric I hear from my conservative friends about a competitive economy? Competition is what drives prices down.

Well, maybe one of the reasons millions of Americans today are paying 25 or 30-percent interest rates on their credit cards is you have got four banks that issue two-thirds of them.

The four largest banks in this country provide half of the mortgages in America. I think that is a real problem. The four largest banks control nearly 40 percent of all bank deposits in this country.

Over 100 years ago, we had some good Republicans, William Howard Taft and Teddy Roosevelt. When they saw the concentration of ownership and wealth that existed in their time, they, as good Republicans, said: Let's start breaking it up.

I think what they did over 100 years ago is a lesson we should learn today. If a financial institution is too big to fail, that financial institution is too big to exist and the time is now to start breaking it up.

This idea of starting to break up large financial institutions is not just an idea that BERNIE SANDERS has, it is not just an idea, an amendment offered by Senators BROWN of Ohio and KAUFMAN are going to speak to. It is an idea that is spreading all over this country.

I would point out to you that the presidents of three regional Federal Reserve Banks also support the need to start breaking up large financial institutions. These are: James Bullard, who is the president of the Fed in St. Louis; Thomas Toenig, the president of the Fed in Kansas City; and Richard Fisher, the president of the Fed in Dallas, TX. They are all in agreement that we have got to start breaking up these large financial institutions.

Senator DORGAN made this point, and I want to make it again; that is, that during the bailout, the Fed decided it was going to lend out trillions of dollars in zero or almost zero-interest loans. When Chairman Bernanke came before the Budget Committee, on which I serve, I asked him what I thought was a pretty simple and straightforward question: Mr. Chairman, can you tell me and the American people who received these loans?

I mean, we are talking about trillions of dollars in loans. I do not think it is too much to ask who received the loans and what the terms were of those loans. Well, Mr. Bernanke disagreed. I offered an amendment that day that begins to bring transparency to the Fed. That amendment is called the Federal Reserve Sunshine Act. I am happy to say it has 32 cosponsors. Interestingly enough, 22 of them are Republicans, 10 are Democrats. They are: Senators BARRASSO, BENNETT of Utah, BOXER, BROWNBACK, BURR, CARDIN, CHAMBLISS, COBURN, COCHRAN, CORNYN, CRAPO, DEMINT, DORGAN, FEINGOLD, GRAHAM, GRASSLEY, HARKIN, HATCH, HUTCHISON, INHOFE, ISAKSON, LANDRIEU, LEAHY, LINCOLN, MCCAIN, MURKOWSKI, RISCH, THUNE, VITTER, WEBB, WICKER, and WYDEN.

That is quite a cross section of political views in favor of bringing transparency to the Fed. What my amendment will do—and we intend to bring that amendment to the floor during this debate—is, in fact, it would require the Federal Reserve to release all of the details about the more than $2 trillion in zero-interest loans the Fed provided to large financial institutions. Also it would call for a GAO audit of the Fed.

The bottom line there is it is imperative that the GAO conduct an independent and comprehensive audit of the Federal Reserve within 1 year. That is what our amendment does. It requires the Federal Reserve to disclose the names of the financial institutions that received over $2 trillion in virtually zero-interest loans since the start of the recession.

This is an amendment that I think millions of people want. What is interesting about it is if you talk about bipartisanship or tripartisanship, this amendment, both in the House and the Senate, brings together some of the more conservative members and some of the more progressive members. In the House, this language is supported by my former colleague RON PAUL. I am introducing it here in the Senate. That, my friends, is a very significant disparity in political views. But we do agree that the Fed needs transparency.

Let me conclude by simply saying this: The time is now for the Senate to begin to deal with the greed, the recklessness, and the illegal behavior on Wall Street. The American people have demanded action since this crisis began, and we owe it to them to deliver. As we proceed with Senator DODD's piece of legislation, which I think has many very positive attributes, I think our goal is as we debate it, to make it even stronger.

In that regard, as I mentioned, I will be bringing forward an amendment dealing with Fed transparency. I will be bringing forth an amendment which will put a cap on the interest rates that banks can charge. I think it is not acceptable, not moral, that banks are now charging 25, 30-percent interest rates. We are going to have a cap similar to what exists for credit unions.

As I mentioned also, we are going to have legislation, an amendment dealing with Fed transparency. So my hope is our Republican friends will join us in beginning this debate and, in fact, going forward so that finally, finally, we can hold Wall Street accountable and bring forth the legislation to make sure that never do we see a repetition of the disaster we saw a year and a half ago.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I understand I have 10 minutes in which to make my remarks. Is that correct?

The PRESIDING OFFICER. The Senator can be recognized for 10 minutes.

Mr. ROBERTS. I appreciate that.

Over the past 2 years, Americans have seen an unprecedented government reach into the private sector, some of which may be necessary. They are angry about it, as they should be.

For many, the overreach of government began with the bank bailout or TARP. The $700 billion TARP that I opposed was passed in the fall of 2008 when every day we awoke to see a new financial crisis headlining the front page.

TARP was initially intended to purchase troubled assets and get them off the books of the troubled banks. Yet, over time, the program evolved into a fund—some would call it a slush fund—to include bailouts for the auto industry and the housing market. The term ''bailout'' will never be the same again.

I think the American people are right to demand that they are never again put on the hook to bail out a failed company. They are right to demand that those who got us into the financial mess not be allowed to do so again. Unfortunately, the financial regulatory reform bill that the Senate is set to take up and debate does not achieve these goals.

I know both sides are now involved in discussions, and the next 48 hours are going to be absolutely crucial to determine if, in fact, we can get a bipartisan bill. But with any business, if it is mismanaged, if its leaders make poor decisions, the business should be allowed to fail. Success and failure have, until recently, been the cornerstone of what has made our economy one of the strongest in the world. The bailouts of financial and auto companies have turned that philosophy on its head. I think it is a dangerous road to go down. We need to set a new course. It is what the American people want.

This bill does not end bailouts. Instead, it allows some of the largest financial institutions to contribute to a bailout fund, to be used if a company were again to fail.

Well, this does nothing to deter companies from taking risks that could lead to failure and the need for a future bailout. In fact, it sends a signal that the government will bail out institutions, just as it bailed out Fannie Mae and Freddie Mac, the two troubled mortgage giants that have received $125.9 billion, might as well make it $126 billion, in direct government funding and now have an unlimited U.S. credit line.

Yet there is no mention, no mention, of Fannie Mae or Freddie Mac in this bill. Failure to deal with Fannie Mae and Freddie Mac keeps taxpayers on the hook for more bailouts of these entities.

The bill also allows the FDIC and the Federal Reserve to come to the aid of failing financial firms, which means that financial markets will be fully aware of the government's authority and inclination to prop up large failed financial institutions.

The very existence of this authority undercuts the claim that the government will actually ever wind up with such firms. Those firms, along with their creditors and shareholders, will take more risks and, yes, put the financial system into even greater danger.

There has also been much attention paid to the creation of something called a Bureau of Consumer Financial Protection, BCFP. I would hate to try to pronounce that acronym.

This sounds like a good idea at first. We all want, everyone in this Senate wants, to ensure strong consumer financial protection. That is not the issue. Yet, rather than working with regulators to strengthen existing consumer protection rules and crack down on unfair deceptive and abusive practices, this provision adds another layer of bureaucracy and financial regulation that will ultimately be harmful for consumers, and I mean all consumers, by raising their costs for financial products, and eliminating the types of financial products and services that are available to choose from.

Not only that, this bill increases the regulatory burden for banks, including our community banks, that are already subject to 1,700 pages of regulations in the consumer area alone. Under this bill, our community banks would have to comply with an additional 27 new or expanded regulations, including new burdens on small business loans. No telling how many pages these new regulations will add or how much they will increase the cost of lending to small business. Finally, this bill harms the very innovation and entrepreneurship that has made our country so successful and created one of the strongest economies in the world. It does this by limiting the ability of small startup companies to raise seed capital. Currently, angel investors—that is quite a name—but angel investors, those higher income individuals who wish to invest in a promising startup company, to take the risk, must have a net worth of at least $1 million or income of $250,000.

This bill increases those requirements to $2.3 million and $450,000, respectively. Estimates are that this provision, along with a provision in the bill that would subject startups and investors to 50 different sets of State regulations, would disqualify about 77 percent of current investors.

In 2007, these individuals invested $26 billion in more than 57,000 ventures across the country. We are talking about companies such as Amazon, Google, Facebook. All benefitted from angel investors. Yet this bill makes it harder for promising young companies to get the capital they need to get started to grow and become successful.

At a time when the unemployment rate is 9.7 percent, I think the last thing Congress should do is to make it more difficult for small businesses to start up and be successful. Small businesses are, as the President has acknowledged, the leading job creators in the country.

Everyone—everyone—all of us agree we need better regulation of our financial system. However, the financial regulatory reform bill that came out of the Banking Committee does not achieve that goal. I dearly hope the chairman of the committee and the ranking member can reach some accommodation to produce a better product.

It does not address the problems, as written, that led to the financial turmoil but, instead, imposes additional regulatory burdens on our community banks and financial institutions that did not contribute to that turmoil.

It does not discourage risk taking by large financial institutions. It does nothing—nothing—to address Fannie Mae or Freddie Mac, which had a central role in the collapse of the housing markets that helped trigger the financial crisis.

It does not ensure that taxpayers never again have to bail out a failed company. However, it does increase the Federal bureaucracy and make it more difficult and costly for consumers to obtain credit for their families and small businesses.

This approach will not benefit consumers or community banks or our economy. We need to work to improve this bill. It is vital for our economy we get it right when addressing financial regulatory reform because the consequences will be seen for years—for years—to come.

I yield the floor.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Connecticut.

Mr. DODD. Madam President, I will take a few minutes, if I can, recognize myself for 10 minutes, if I may, and ask the Presiding Officer to notify me when that time has expired.

The PRESIDING OFFICER. The Chair will do so.

Mr. DODD. Madam President, I have great affection for my friend from Nebraska and I appreciate his comments about the bill. He wants to fix the bill. That is a noble goal. And the way to fix the bill, of course, is to begin debating the bill. So I am delighted to hear he would want to fix the bill. The problem I have is I cannot seem to get enough people on the other side to get us to the point where we might give them an opportunity to do exactly what they claim they want to do.

Mr. ROBERTS. Madam President, will the chairman yield for a second?

Mr. DODD. I am happy to yield, just for a second.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. I am very privileged to represent the State of Kansas.

Mr. DODD. Kansas. Excuse me. I am sorry.

Mr. ROBERTS. Nebraska is fine, but they——

Mr. DODD. I apologize to my colleague.

Mr. ROBERTS. I mean, their football teams are a completely different——

Mr. DODD. But in basketball, you do very well, so it is OK.

Mr. ROBERTS. So it is Kansas.

Mr. DODD. Kansas, not Nebraska.

Mr. ROBERTS. I appreciate it.

Mr. DODD. I thank my friend.

Anyway, my point is, we want to get to the bill. And whether it is my Senator friend from Kansas or Nebraska, we want to get to the bill, if we can. That is all this is about now. I am going to talk about the bill a bit here in the brief moments I have before we actually get to the vote this afternoon on this matter.

The American public is sitting there in sort of stunned disbelief. Here we all acknowledge this huge problem that needs to be addressed for the 8.5 million people who have lost their job, the 7 million who have lost their homes, their retirement income. We know from all of the statistics what this financial crisis has caused.

Over the last year and a half, we have been busy trying to come up with the answers on how to solve this problem in the future. Here we are, with about 14 weeks left to go before the close of this Congress, with a bill on the floor of the Senate that we put together over many weeks and months—on a bipartisan basis, I might add. Here it is, Madam President. Now we are being told, despite the fact that 58 of us believe we ought to at least begin the debate—I am not asking anyone to vote for the bill. I am not asking you to vote for an amendment on the bill. All I am asking you is, Can we begin discussing this bill here? It is the job of this body to do so.

So I am delighted to receive all the lectures I have received from people from about whether they like the bill or do not like the bill or what they want to add to it or subtract from it, and that is all very interesting conversation. But the fact is, until we actually move to the bill—which will be the matter once again before us this afternoon—all that talk is nothing but talk.

If you have an idea on what you want to change in this bill, tell me about it. But, more importantly, let's debate it, discuss it, and then vote on whether to add it to this piece of legislation, or to take anything out you wish to take out as well. But I cannot even begin that process if, in fact, you continue to object to us getting to a debate.

So that is what this is all about.

I guess it does not pay to get your hopes up in this town, but I was still disappointed yesterday when we ended up coming up short with the votes necessary to proceed to the bill.

To be honest, I am still mystified by the reaction of our colleagues. Yes, we have heard all the rhetoric from the minority leadership. We have seen the thundering horde of Wall Street lobbyists descending on this community, having been paid millions of dollars to do everything they can to stop this, including the motion to even proceed to debating the bill. They had a victory yesterday. Congratulations to the Wall Street lobbyists. You had a great day yesterday. The American people do not even have a chance to hear a bill discussed that might avoid the kind of catastrophe that has befallen them over this past year and a half.

And, yes, we are all familiar with political considerations that seem as inevitable as the sunrise in this community. But still, I cannot bring myself to believe that every single member of the minority caucus wants to stand with the large Wall Street financial institutions that are the major objectors to this bill going forward.

This morning, as Goldman Sachs executives were testifying—including this afternoon—before a Senate committee, we all got another chance to understand why they feel so deeply wronged by this legislation.

As Frank Rich said in the New York Times this weekend—and I quote him—

> [S]omething is fundamentally amiss in a financial culture that thrives on ''products'' that create nothing and produce nothing except new ways to make bigger bets and stack the deck in favor of the house.

Our prosperity in the country was built on the hard work of generations of Americans. It was grown in the cornfields of Nebraska and Kansas, engineered in the laboratories of Massachusetts, forged in the foundries of Chicago, and manufactured, if I may say so, in textile plants such as in my home State of Connecticut.

It is deeply ingrained in the American ethos that, in this land of great opportunity, you build wealth by creating something: an idea, a product, a service.

This economic crisis was not caused by the creators, the producers, the small businesses, and the working men and women who abide by that guiding principle. It was caused by some on Wall Street who wanted to get rich without contributing a thing, by executives who simply come up with ways to circulate money around in a large circle, taking a piece for themselves every time that circle spins.

Operating in the shadows of our economic structures, in the places where regulators were not equipped to do their job, firms such as Goldman Sachs found ways to game the financial system, reaping unheard of profits and rewarding their executives with huge bonuses.

Understand exactly what these bankers were doing. They were not just trying to predict the future; they were betting on the failure of the mortgage market, a failure they themselves were in a position to cause.

Earlier this month, National Public Radio and the nonprofit journalistic organization ProPublica reported on another firm, a hedge fund named Magnetar. This hedge fund, according to the report, saw the housing market begin to decline in the year 2005, bought up enormous amounts of doomed bonds composed of bad mortgages—thus, keeping the market artificially inflated—and then made huge bets on the failure of the very bonds they had bought, now knowing how worthless they were.

Thanks to this scheme, the housing bubble grew bigger and collapsed harder. Magnetar walked away with billions of dollars in profits. Other institutions saw an opportunity to run the same scheme. The American people ended up paying the price, of course, as we all painfully are aware.

I am the chairman of the Banking Committee. I believe in the vibrant financial sector of our Nation. Small businesses need capital and credit. There are many honest people on Wall Street who, I believe, have helped others to build wealth in our country. So the problem is not that these executives got rich without contributing to America. The problem is that these executives got rich betting against America. They did it in secret where no one could see what they were doing, let alone stop them, until it was too late. They took outrageous risks with money that did not belong to them because they could, in their view. By the time anyone realized what was going on, they had managed to destroy much of the prosperity Americans had built over the course of generations.

Maybe I am naive, but I do not believe any Senator wants to be on their side in this debate. And do you know what. I have seen firsthand that there are Republicans who deeply want to get to this bill and get it done. That is why the legislation we want to bring to the floor reflects broad bipartisan agreement. This bill was not written by this Senator alone or a handful of Democrats on the committee. This bill was written in large part with the cooperation of my colleagues, both Democrats and Republicans.

The bill creates an early warning system so we can see and stop the next wave of dangerous financial products and practices before it threatens the economic stability of our Nation. It brings derivatives out of the shadows and into the sunlight so that Wall Street is held accountable for its actions. And finally, it puts a cop on the consumer protection beat so Americans can make smart decisions based on full information when they are planning for their financial futures and those of their families.

To listen to the minority leader, the main point of contention, over the last week or so, the reason he has given for his caucus to try and kill this bill as a bloc, is a disagreement over the provisions of our bill that end too-big-to-fail bailouts.

But I have to tell you, I do not believe that is the case. No fair reading of this bill allows you to claim with a straight face that it perpetuates taxpayer bailouts. It is not true. I have debunked that idea before on this floor, and I will do it again.

The morning after the minority leader made that claim, McClatchy Newspapers wrote:

McConnell—

Speaking of the minority leader—

had accused Dodd of drafting partisan legislation, even though the Banking Committee chairman has worked for roughly half a year with key Senate Republicans and incorporated many of their ideas into his bill. McConnell also said the bill continues controversial bank bailouts, but it doesn't.

If you do not believe the press reports, here is what our friend, the head of the FDIC, Sheila Bair, had to say. She, as I said, is the head of that organization, the Federal Deposit Insurance Organization—former legal counsel to the minority leader Bob Dole, a Republican in good standing, I might add, as well. She shuts down, by the way, failed banks for a living. She is a Republican. She said:

The status quo is bailouts. That's what we have now. If you don't do anything, you are going to keep having bailouts.

Further, talking about our bill, she said:

It makes [bailouts] impossible, and it should.

Sheila Bair says:

We worked really hard to squeeze bailout language out of this bill. The construct is you can't bail out an individual institution—you just can't do it.

Madam President, I will speak a little bit more. I know my other colleagues will want to be heard. I ask unanimous consent for 2 additional minutes, if I can.

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

Mr. DODD. How in the world the minority leader can come up with that argument does not make any sense at all. He quoted, of course, from the infamous Frank Luntz memo. The memo, of course, by Frank Luntz was written before the bill was written. Frank Luntz's political memo said the following:

The single best way to kill any legislation is to link it to the Big Bank Bailout.

So he provided political recommendations and strategies even before this bill was written. The memo, of course, confirms that because of the date of it. So no matter what he wrote, that was going to be their political argument here. So the minority leader blindly followed the political memo here: Make that argument. Whether it is true is irrelevant, just say it often enough. And the old adage goes: If you repeat it often enough, people will begin to believe it, despite what the facts are. So again, that is the language of others.

But let me, if I can—because sometimes talking about it is not enough—let me quote from sections of the bill.

Section 204 of the bill says:

(1) Creditors and shareholders will bear the losses in the financial company;

(2) Management responsible for the condition of the financial company will not be retained.

Let me translate: You get fired.

(3) The Corporation and other appropriate agencies will take all steps necessary and appropriate to assure that all parties, including management and third parties, having responsibility for the condition of the financial company bear losses consistent with their responsibility, including actions for damages, restitution, and recoupment of compensation and other gains not compatible with such responsibility.

Section 206 of the bill:

In taking action against this title, the (FDIC) shall determine that such action is necessary for the purposes of the financial stability of the United States, and not for the purposes of preserving the covered financial company; ensure that the shareholders of covered financial company do not receive payment until after all other claims and the Fund are fully paid; ensure that unsecured creditors bear losses in accordance with the priority of claim provisions in section 210; ensure that management responsible for the failed condition of the covered financial company is removed—

Again, fired, if you didn't understand those words—

and not take an equity interest in or become a shareholder of any covered financial company or any covered subsidiary.

Lastly:

Notwithstanding any other provision of law, the Corporation, as receiver for a covered financial company, shall succeed by operation of law to the rights, titles, powers, and privileges described in subparagraph (A), and shall terminate all rights and claims that the stockholders and creditors of the covered financial company may have against the assets of the covered financial company or the Corporation arising out of their status as stockholders or creditors, except for the right to payment, resolution, or other satisfaction of their claims as permitted under this section. The Corporation shall ensure that shareholders and unsecured creditors bear losses consistent with the priority of claims provisions under this section.

We seem to agree on the problem, and we seem to agree on how to solve it. So, again, I quote from the legislation.

Let's get to this bill. We have written the provisions that stop too big to fail forever. There are other very important provisions in this bill that deserve consideration.

Again, I am not asking anyone to vote for the bill at this juncture or to vote for the amendments that come up. For the life of me, I don't know how we explain to anyone in this country, in light of what we have been through, that we can't even begin the debate and the discussion.

By the way, no two Senators are going to write this bill. There are 100 of us who serve here, and every single Member of this body has a right to offer amendments and be heard. As chairman of the committee, I will insist upon that. Every Member who has an idea and has an amendment will be heard. But, please, let's get to it.

With that, I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. DURBIN. Madam President, I ask unanimous consent to speak for 8 minutes.

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

Mr. DURBIN. If the Chair will notify me when I have reached 7½ minutes so I may come to a blazing close.

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

Mr. DURBIN. Madam President, it has been over 2 years since Bear Stearns failed. It has been over 18 months since Wall Street collapsed and the economy teetered on the brink of depression. It has been almost a year since the administration offered a detailed proposal to reform Wall Street. It has been 4 months since the House passed its version of Wall Street reform. Yet, unfortunately, the minority party, the Republicans in the Senate, still want to delay any Wall Street reform. They want to put off Wall Street reform for another day.

Yesterday, the Republicans in the Senate had a chance to vote to end their filibuster on Wall Street reform so that we could start to debate this issue and consider amendments from both sides of the aisle, almost the way we remember learning about the Senate in school: a real place where there is a real debate, differences of opinion, votes, winners, losers—an amazing concept. We don't see much of it anymore, do we?

There are a lot of empty chairs here. There is very little actual debate leading to a vote. So yesterday we said to the Republicans: After all this time since this started, after 2 years since Bear Stearns failed and all we have been through, isn't it about time for us to roll up our sleeves and get down to work? Shouldn't we bring some reform and transparency to Wall Street so we don't have to go through this ever again? Wall Street got away with murder and the taxpayers ended up holding the bag, remember?

The previous administration asked us to send almost $800 billion to Wall Street to save the institutions that made some of the greediest, stupidest decisions in the history of American business. I was in those meetings. I can remember sobering moments—I will bet the chairman of the Banking Committee can remember them as well—when the Treasury Secretary, Mr. Paulson, and the Chairman of the Federal Reserve, Mr. Bernanke, looked us in the eye and said: If we don't put $85 billion in AIG today, it will fail and the American economy will fail with it. It takes your breath away. We do a lot of important things here but nothing like that. Then, it wasn't 2 weeks later that they came back and said: It is not enough. We need up to $800 billion to buy toxic assets with something called TARP.

Well, let me tell my colleagues, I am a liberal arts lawyer. I have spent a lifetime in politics. I can't really start quibbling and arguing about puts and calls and derivatives and CDOs and all the rest of it. At some point, you take the word of the people who are in charge, and I voted for it. The alternative was unthinkable.

So where are we today? Sadly, some of those same firms we rescued with taxpayers' dollars sent us a thank-you card which had a postscript that said: Incidentally, we have just declared that we are going to give one another $10 million bonuses for our wisdom. How do you buy that? How do you sell it to the American people?

So we have come here with the leadership of Senator DODD on the Banking Committee and Senator LINCOLN on the Agriculture Committee, which has a piece of this, and said: We are going to change this story. We are going to have more accountability, we are going to have more transparency, and, frankly, we are going to put a cop on the beat when it comes to Wall Street. We are going to make sure they don't get involved in this mess again.

I don't often come to the floor to plug a book, but I am going to: Michael Lewis, ''The Big Short.'' I recommend it if you can stand it. He tells the inside story of what happened on Wall Street. These so-called great, wise men didn't know what they were doing other than making a lot more money every single day. They were building this house of cards, and eventually it fell. He tells the story about the folks who profited when it fell. They were completely out of favor for years. People said: Shorting the housing market? Are you crazy? There is no way to go but up when it comes to housing. Well, they made a lot of money, shorting the market, and the folks who came up with these crazy vehicles to package all these mortgages left us and America holding the bag.

This recession we are in took $16 trillion to $17 trillion out of the American economy. I don't need to tell anybody about it. If you look at your savings account before and after, you know what I am talking about—savings, retirement, the business down the street that closed, the neighbor who lost his job. You know the story, as we all do. It took $16 trillion to $17 trillion. That is more than the total value of all of the goods and services produced in the United States of America in any year—the total value—yanked out of the economy because of the stupidity of these folks.

Now we come before the Senate and say: Do you want to risk going through that again? Shouldn't we learn something in the process here that avoids that problem? The Republicans yesterday said: No, thanks. We don't care to vote on this.

Well, in an hour they are going to have another chance. I hope they have come to their senses. I hope the people they represent have led them to their senses. We have given them ample opportunity, and will, to offer their amendments. Let's hear their ideas. I am going to be open to them. I certainly don't want to water down this bill. I think it is a good bill. I want to try to make it stronger. If they want to water it down, we will have a vote, debate and vote, almost like the U.S. Senate. It will be amazing.

There is a second provision in here for consumer financial protection. Right now, strung out across our government are all of these agencies that are supposed to be watching out for us. We have agencies that make sure the toaster you bought over the weekend doesn't explode, catch fire, and burn down your house. We expect that, don't we? That is the Consumer Product Safety Commission. But we don't have an agency that makes sure the mortgage you signed doesn't explode and you lose your house. That is what happened: stuck in mortgage provisions.

Have you ever been through a real estate closing? There is a stack of pages turned at the corner; sign as fast as you can; at the end of 15 or 20 minutes, you have writer's cramp; a check; a key to the house, and you are out the door. Oh, you didn't check that line, the middle of the page, the 35th document that you signed? It had a prepayment penalty in there for your mortgage. Prepayment penalty, so what? Well, it just says that when the interest rate goes up, you can't refinance it. Oh, I didn't know that. Of course you didn't. Lawyers don't catch those things.

So we want to create the strongest consumer financial protection law in the history of the United States not to create a massive agency—it won't be—but to empower consumers so that when you sit down at that closing or you decide to take out a credit card or a student loan or an auto loan, you know what you are getting into. The basics are in front of you in plain English. Wall Street hates this idea like the Devil hates holy water. The notion that there would be some agency there looking over their shoulder sends fear into their hearts. I think it is a good idea. If someone wants to come here and debate it, I am ready, but I think we ought to have a debate. What are the Republicans afraid of?

The PRESIDING OFFICER. The Senator has consumed 7½ minutes.

Mr. DURBIN. Let me go to my blazing close.

Let me just say that at the end of the day—currently, lobbyists are being paid $120,000 a day by Wall Street to stop this bill. So far, they have Republicans on their side and they have been successful. In an hour, I hope that all changes. Let them join us in a bipartisan effort to make this economy stronger, make the rules work for average people, and to put some protection in there for the consumers of America.

I yield the floor.

Mr. DODD. Madam President, I am told there are others who want to be heard, so I would at this juncture note 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. Madam 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. I see my friend and colleague from Oregon. I will yield 10 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. MERKLEY. Madam President, I thank the chairman of the Banking Committee for the time to address an issue that I think is essential in this bill and for all of the good work he has done to bring this reform bill to the floor of the Senate.

It is time that we have an open debate on the floor of the Senate about provisions that affect the financial foundations of our entire economy. I know the chairman has been working hard. We held the vote yesterday to try to proceed with an open debate. We will hold another vote today and one tomorrow to say let's have this conversation about reforming Wall Street.

Today, I wish to address a particular point, which is limiting the ability of high-risk investments to blow up our economy.

My colleague and friend, Senator LEVIN, did a monumental service to this institution today by holding a hearing with the executives of the large investment firm Goldman Sachs, discussing practices that misled clients and bundled huge risks into our financial system.

The SEC currently has an investigation underway. The courts will determine the merit of that case. But today I want to address what the SEC could not charge Goldman Sachs with: they could not charge them with the clear conflict of interest for holding a financial stake in a position completely opposite to the very security that they themselves put together and were selling to their clients. The reason the SEC could not address this issue is because there is currently no law that says such a conflict of interest is unacceptable.

This gets to the heart of what is wrong on Wall Street today. The executives at Goldman Sachs are insisting up and down that they were not making high-risk bets themselves; instead, they were only ''market makers'' underwriting these deals. Well, no matter how often someone repeats something, that doesn't make it so. As others have said, facts are stubborn.

Goldman was holding positions for its own benefit—large positions. They were betting the market would go one way or another. But that is not making a market, where you bring buyers and sellers together; that is proprietary trading, plain and simple.

Proprietary trading, or high-risk investing, cost investment firms and commercial banks billions of dollars in losses because they bet big on housing securities, and the bets went bad.

Those losses were eventually covered, in large part, by the taxpayers through TARP. This isn't a side issue to the financial meltdown; it is a core issue. That is why we need to begin debate on Wall Street reform right now. We cannot let Goldman and other firms continue to pretend they weren't placing high-risk bets. We cannot let financial firms continue to get away with selling bad products to unsuspecting clients while betting against those products.

This issue goes to the heart of the integrity of the system, and integrity is essential for folks who have capital and want to put that capital at risk. They need to know they have a fair market into which they can invest that capital. This goes right to the core of the role of Wall Street in aggregating capital and allocating that capital to the places where it would have the highest return.

The bill before us is a very good bill. I think we can make it even stronger by including an amendment that Senator LEVIN and I have sponsored on high-risk investments and conflicts of interest. But to consider that amendment, we have to begin the debate; and that debate should begin now.

Let's not let lobbyists confuse the issue. They will try to argue that high-stakes investing was not implicated in this crisis, or that the sky will fall if we move high-risk investing outside of the banking system—I am talking about those banks that take insured deposits and make loans—but that is not the case.

I wish to read from a letter sent to me and Senator CARL LEVIN by John Reed. John Reed is former chairman and CEO of Citigroup. He speaks to those false arguments. This is what he wrote:

> I write to support your efforts to rein in the high risk activities that helped cause the collapse of the world's financial system. The recent financial crisis demonstrated all too clearly the twenty year deregulatory experiment in combining critical commercial banking with equally critical, but riskier investment banking, failed.
>
> In 2007 and 2008, losses from risky proprietary trades in the major financial firms quickly decimated the availability of credit and seriously damaged the economy far beyond the concrete canyons where those bets were made.
>
> When a firm is focused on market gain through proprietary trading, it too often will employ every available device to achieve those gains—including taking advantage of clients and putting the firm at risk. As recent cases in the media demonstrate, risk management and conflicts of interest systems do not alone accomplish those goals.

John Reed, the former chairman and CEO of Citigroup, concludes with this:

> I strongly support your efforts to put the provisions that Chairman Paul Volcker has advocated firmly into law. I believe that the PROP Trading Act (S. 3098) and your proposed Floor amendment based on that does that. The legislation provides reasonable exceptions for client-oriented services while including the necessary safeguards to protect against the dangers of high-risk assets and high-risk trading strategies. Putting these restrictions firmly into law will be good for our economy and good for our financial services industry—even though they may now argue to the contrary. Refocusing our financial firms on client services will help them restore the global leadership position that has been seriously undermined by the recent crisis.
>
> Certainly, we need many other important reforms, including creating a strong consumer protection agency, imposing the duty of care to customers on financial providers, and reestablishing a well-regulated market for derivatives. But a strong Volcker Rule is one of the most important provisions to prevent "too big to fail" financial institutions, stop conflicts of interest, and support credit in our economy.

Madam President, I ask unanimous consent that the entire letter from John Reed be printed in the RECORD.

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

APRIL 23, 2010.

Hon. JEFF MERKLEY and Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATORS MERKLEY AND LEVIN: I write to support your efforts to rein in the high risk activities that helped cause the collapse of the world's financial system. The recent financial crisis demonstrated all too clearly the twenty year deregulatory experiment in combining critical commercial banking with equally critical, but riskier investment banking, failed.

In 2007 and 2008, losses from risky proprietary trades in the major financial firms quickly decimated the availability of credit and seriously damaged the economy far beyond the concrete canyons where those bets were made.

When a firm is focused on market gain through proprietary trading, it too often will employ every available device to achieve those gains—including taking advantage of clients and putting the fine at risk. As recent cases in the media demonstrate, risk management and conflicts of interest systems do not alone accomplish those goals.

In fact, the incentives of management and traders at today's massive, publicly traded banks are geared towards short term profits—both the firm's and their own—and not towards the long-term well-being of their employer or their clients. Boards of directors have obligations to maximize shareholder value, and no matter how much they and management attest to the contrary, they too naturally focus on short term performance. As one competitor's risky trading boosts its earnings and relative short term performance, others will be pressured—by the markets, and their own economic self-interest—to follow suit.

Without strong rules on risk, leverage, and conflicts of interest, we will see another race to the bottom, as traders, management, directors, and even shareholders will seek to attain the supersized rewards made possible by high risk investments. The incentives need to be more properly aligned—which can only best occur if proprietary trading is out of the banks, and restricted at the systemically critical non-banks.

I strongly support your efforts to put the provisions that Chairman Paul Volcker has advocated firmly into law. I believe that the PROP Trading Act (S. 3098) and your proposed Floor amendment based on that does so. The legislation provides reasonable exceptions for client-oriented services while including the necessary safeguards to protect against the dangers of high-risk assets and high-risk trading strategies. Putting these restrictions firmly into law will be good for our economy and good for our financial services industry—even though they may now argue to the contrary. Refocusing our financial firms on client services will help them restore the global leadership position that has been seriously undermined by the recent crisis.

Certainty, we need many other important reforms, including creating a strong consumer protection agency, imposing the duty of care to customers on financial providers, and reestablishing a well-regulated market for derivatives. But a strong Volcker Rule is one of the most important provisions to prevent "too big to fail" financial institutions, stop conflicts of interest, and support credit in our economy.

I congratulate your efforts and urge others to join you.

Sincerely,

JOHN S. REED.

Mr. MERKLEY. Madam President, it is very helpful to have a former CEO of a company such as Citigroup weigh in on the challenges before us. John Reed, as former chairman and CEO of Citigroup, is in a position to reflect on the deregulation and the combination of the roles of lending banks and investment houses and how it contributed to creating the economic catastrophe that became the great recession.

I speak now to my colleagues to say that we need your help in creating a firewall between highly risky proprietary investments and the basic lending functions of banks. It is like storing fireworks in your living room. Fireworks are wonderful, and there is no problem with utilizing them on the Fourth of July or New Years. But you don't store them in your living room where they might end up burning down your house.

Second, we need clear conflict of interest rules that make sure that the investment houses maintain integrity with their customers, so that if they are promoting a security to their customers, they are not doing so while separately and secretly betting against it. These reforms are important. They are an important part of the financial rules of the road that will be healthy for Wall Street and for the foundation of our economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I yield 5 minutes to our colleague from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Madam President, yesterday afternoon, we attempted to bring a bill to the floor that finally holds Wall Street accountable. It is a bill that includes the strongest protection for consumers that has ever been enacted. It is an end to taxpayer bailouts, and it gives tools to individuals, the resources they need to make smart financial decisions. It is a bill that ends Wall Street's "anything goes" rules that have meant everybody else pays.

Unfortunately, the "no" vote from the other side yesterday told us they don't want strong new protections that can't be ignored. It appears they don't want to hold Wall Street accountable for years of irresponsibility and taxpayer-funded bailouts. Instead of fundamentally changing the financial rules of the road, the other side wants to build a speed bump and pass a bill that neither reforms Wall Street nor protects Main Street.

I fear that the obstruction and unwillingness to allow us to bring a bill to the floor is simply their push to get a watered-down bill that big banks can simply step aside from and ignore. It has been rubberstamped by Wall Street lobbyists and special interests. This is just an effort to figure out how they can preserve the status quo and talk their way out of change.

I fear the delay is about allowing special interests in Washington and bankers on Wall Street and big money donors to write a compromise bill. I worry that just about everybody has been invited to the table to write that bill—except the American people. That is because the vast majority of Americans want to see the strong Wall Street reforms we have put forward pass.

In fact, just yesterday, the Washington Post released a poll that shows 63 percent of Americans want to see stronger regulations of Wall Street enacted. But do you know what. There is still a widely held view on Wall Street—as yesterday's vote shows—with many in this Chamber that the voices of the people can be drowned out by big money and twisting words about the truth about what is in this bill. Wall Street thinks they can get away with highway robbery because, unfortunately, they have. They think they can pull a fast one on Main Street. I am here to tell you they cannot. They are flatout wrong. I know because I got my values from Main Street. I grew up in Bothell, a small town of 1,000 people. The values we learned on Main Street are good ones that are also good for your business and for your customers.

We learned that an honest business is a successful one. We learned that our customers are not prey and businesses not predators. We learned that personal responsibility means owning up to mistakes and making them right.

We believe these values are strong throughout our country today. Those values exist in such small towns as the one I grew up in and big cities in every State. Everyone who voted against moving forward with this bill yesterday is going to hear from people who hold those values today. I am sure they will tell you in no uncertain terms that it is time to pass a bill with strong reforms for a system that is out of control. It is time to protect our consumers, time to end bailouts, and time to restore personal responsibility and bring back accountability.

I am very hopeful in the coming few days all of those who voted no will move forward and listen to the hardworking men and women in this country so we can put forward a strong reform bill on Wall Street and protect the American people and the millions of people who have lost their jobs and their security and homes in the last few years from ever having this happen again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Let me thank my colleague from the State of Washington. I appreciate very much her comments and her leadership.

I see my friend, Senator BROWNBACK, as well. Madam President, I ask unanimous consent that the last 7½ minutes be reserved for myself before the vote. Is that the correct time; 7 or 7½ minutes? 7½ minutes.

The PRESIDING OFFICER. Without objection.

The Senator from Kansas.

Mr. BROWNBACK. Madam President, may I inquire how much time remains on our side on the debate?

The PRESIDING OFFICER. Thirty-five minutes.

Mr. BROWNBACK. I thank the Chair, and I yield myself such time as I may consume.

I thank my colleague from Connecticut, whom I think the world of. He is a wonderful family man, whom I saw out walking this morning. He is a great human being, a great Senator, and of great lineage. I am sorry to see Senator DODD leaving.

I have one particular area of this bill about which I wish to raise a point. Auto dealers are in town today. We have a series of auto dealers from across the country who are here and they are deeply concerned about the consumer financial products piece of this particular legislation. They are concerned because it is going to hit them. I would point out to my colleagues about this that I have purchased a car—I presume everyone in this body has purchased a car—and probably a number of us on credit, although maybe not everybody. But nearly everyone has gone into a dealership and bought a new or used car and asked for financing on that new or used car and have gotten it from the local dealership. Ninety-four percent of those cars that are financed that way, that paper is actually from some relationship the dealership has upstream. It is from a bank, a major consumer auto lending entity or from somebody else who does the financing. The local dealership just has the paper there, and they are the ones that originate it. They sell the car and arrange for somebody else to do the financing. They don't do it—or 94 percent don't do that. Six percent of car dealerships do their own local financing.

I have an amendment that I will put forward, if we get a chance—or I would prefer this actually be built into the base bill—where the local auto dealership that doesn't loan their own money isn't required to comply with the consumer financial products requirement of this bill. It will add another level of regulation onto auto dealers that are already struggling to try to get cars to market so people can purchase and they can provide financing for individuals.

If we add another level of regulation, it will just mean more cost, and they are already regulated. This product would be regulated upstream already. The financial institutions that are writing the note and the paper are already regulated under this bill. Why would we do the double regulation in the bill on top of the local regulation they already have?

That is why the auto dealers are here in town today, saying they didn't cause the financial crisis, they are not banks, and they do not think they ought to be a part of this. They are quintessential Main Street auto dealers. They are part of the Main Street fabric. We have lost a lot of auto dealers across the country during this financial downturn. We spent $3 billion trying to support the auto industry and now we have this heavy-handed regulation that will cost auto sales. It doesn't seem to make sense that we would penalize Main Street for Wall Street's problems. They are small businesses, the auto dealers are, in cities and towns throughout the country. We should be talking about how we can support them and extend credit in the marketplace rather than regulate and tamping down on their business.

My amendment is simple. It keeps these new banking regulations from touching auto dealers that do not loan their own money. That is all it does. If they loan their own money, they are subject to it. If they do not loan their own money, if some other major bank, financial house or institution does it, that financial house or bank or institution is subject to the regulation. But the auto dealer that is simply there trying to get a car sold and providing this instrument that comes from somebody else, they are not regulated, so they do not have the extra cost. So it is not double regulation from the same bill.

If an auto dealer does lend that money, as I mentioned, they will be regulated. This amendment applies only to auto dealers that facilitate loans from larger financial companies. Why should we have to amend this? If I am hearing anything across my State—and I am traveling a lot across Kansas—people are fed up with heavy-handed, big government. They have had it up to their necks and beyond with heavy-handed, big government. Why would we do this on top of everything else?

These auto dealers are the retail outlets. They are the storefronts that process the paperwork for various well-known brands with large finance arms. Under my amendment, these finance arms would still be regulated, but the dealers that process the paperwork wouldn't. But it is still regulated upstream. The auto dealerships themselves have been crippled from sales this last year, crippled from the financial crisis we hit. We have been trying to help and support them. This is a break in the cardinal rule that if you want less of something, tax and regulate it. That is what this bill will do. We will have less auto dealerships if you are going to tax and regulate them. It doesn't make any sense.

Under my amendment, auto dealers would still be regulated by the FTC and various State laws, so consumers would still have protection to ensure that truth in lending still applies. So if you are concerned about auto dealers and what they are doing, the writing and the paper retailwise, they remain regulated by the FTC and various State laws and consumer protection laws that are currently in place. I think those are things that should remain in place, and they do remain in place. We don't need another level on top of that. Why do we need to create a duplicative regulation for auto dealers, where we regulate each dollar of each auto loan twice? This is what frustrates people so much.

I have people raise the concern about what happens outside military bases and auto loans outside military bases. We have several major military bases in the State of Kansas. We are very proud of our military bases and our military. They are saying: OK. We want to get at auto loans and dealers there. Well, they are regulated. They are currently regulated. They are currently regulated under the FTC and various State laws.

If somebody is concerned about a small auto dealer that sits right outside a military base and tries to get financing for military members and they do not like what the financing is, that is currently regulated. It is already in many States, where a State's attorney general can go at these right now. They know where they are located. It is not as if they are hiding and moving around. They are located right outside military bases. If you want to hit them and regulate them, go to the State attorney general, go to the State consumer products agency, go to the State consumer finance agencies and have them address it. Why on Earth, with the big financial problem we have had that was created by Wall Street and international traders, would you want to hammer the local auto dealers?

As I put this amendment forward, it was interesting to me that we had a number of groups say people who sell recreational vehicles are also interested in being brought into this amendment and being excluded or motorcycle financers or any number of groups because they are seeing the same problem. They are small businesspeople. They are going to be regulated by this enormous Federal entity that was targeted at Wall Street and, instead, as small businesses in their local communities, they are going to get hit. They are going to take the hammer, and they are not set up to handle it. They do not have huge staffs in these areas. They have small staffs to take care of this, and now we are going to put a big regulatory entity on top of them when it is already regulated upstream.

This makes no sense, and it will do no good. It will cost a lot more, it will make financing less available to individuals, and it will hurt these businesses. It will hurt car sales, it will hurt motorcycle sales, and it will hurt the economy for no good reason. I ask my colleagues to focus in on what is happening in this area of the consumer products and their financing. Do we want to hit auto dealers? I don't think so. I don't think that was the target of this bill. It certainly wasn't the cause of the financial crisis we had.

Why would we have to hit them? We don't. Listen to your local auto dealers. They are here in town today. Hear their story about what is taking place. Let's help the auto dealers, as we have been trying to do, and let's not hurt them with a heavyhanded regulation.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, let me begin, first of all, by complimenting my colleague from Kansas, who has been indefatigable in the argument and the cause that he was espousing just now. He has talked to all of us about this problem, and he has made it very clear this shouldn't be an intention within this legislation. We shouldn't be trying to expand the reach of a bill—that was supposed to deal with Wall Street—all the way to our local car dealers on Main Street. I appreciate the fact that sometimes legislation sweeps with too broad a brush, but this is something we can fix and we need to fix it.

In fact, it is not just the auto dealers. The National Federation of Independent Businesses, which bills itself as the voice of small business, and frequently does represent small business causes, has written a letter to us, on April 26, describing this unduly large reach of the legislation before us.

Madam President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the letter I have just referred to.

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

(See exhibit 1.)

Mr. KYL. Madam President, another word about what is said in this letter. They point out the fact that the consumer protection part of the legislation goes far beyond protecting consumers from Wall Street. It essentially goes to anybody who lends money on an installment basis where you have more than four installment payments. Let me quote from the letter.

> NFIB is concerned about the overly broad reach of the new Consumer Financial Protection Bureau. Providing consumers with clear and accurate financial information is an important goal, but because of the reach of the Bureau's authority many small businesses will find themselves subject to its regulations. In addition to the many new and duplicative regulatory burdens placed on community banks, the Bureau is charged with regulating any retailer or merchant that finances a purchase subject to a financing charge or written payment plan with more than four payments. Many small business retailers and merchants—such as medical professionals, hardware, electronics, and jewelry stores—struggling through the current economic climate would be subject to these new regulations.
>
> These small businesses had nothing to do with the Wall Street meltdown and should not be faced with onerous new and duplicative regulations because of a problem that they did not cause.

The first concern I have with this legislation is this overbreadth in the consumer protections. Wall Street can take care of itself. It's fine to provide protections against Wall Street, but surely we can reach an agreement that we don't intend this legislation to reach into Main Street, to the extent it does. I would urge my colleagues to listen to the concerns expressed by the NFIB and let's try to deal with those concerns in a way that would enable us to be more supportive of the legislation.

The second point I would like to make has to do with the so-called too big to fail or taxpayer bailouts. There are different ways of talking about this. I find it interesting that some of my colleagues have apparently a great reverence for a pollster and wordsmith by the name of Frank Luntz. Frank Luntz is a person whom I know, and he is very good with words. He is a good pollster and so on. At one time, he apparently wrote a memo that suggested that one way to attack a bill such as the bill that is before us—I think my colleague, the chairman of the committee, has noted this memo was written by Luntz before there even was a bill—was to use bailout language. I haven't seen the memo, but I understand that is what it said.

No. 2, Republicans have used this bailout language; therefore, No. 3, we are blindly following Luntz. Well, if I suggested that to my professor in philosophy 101, I would get flunked out of the course for the basic failure in logic. This is a logic fallacy—something followed something else; therefore, it was because of it. The law that is the famous saying—post hoc ergo propter hoc—obviously, a fallacy.

So I defend those of my colleagues who have used language that may be somewhat similar to Luntz on the basis that just because they used the language didn't mean that Luntz caused them to use it. It may be Luntz figured out the same thing the rest of us figured out—this bill does not end taxpayer bailouts. That is the problem. Taxpayers are still on the hook.

I can understand the sensitivity of those who helped to write the bill who are subject to the criticism in this language. But the solution to it is obvious: Get the taxpayers out of this so they are no longer on the hook for any bailouts and then the argument will not last anymore, whether Luntz likes it or not. That could be done through a process of negotiation. The bill was supposed to stop additional taxpayer liability. Let's make sure it does.

In this regard, I have to object a little to some of the pejorative language used by some Democratic Senators.

We have rhetoric about Republicans' motives. I am not going to suggest which Senators are talking about it, but one of them spoke specifically with respect to the Republican leader by name.

When you are questioning the motives of someone, suggesting the only reason they did it is because they read somebody's memo or because some lobbyist from Wall Street has been visiting them or suggesting it was because of campaign contributions, that gets very close to a violation of Senate rules. Senators can take responsible positions on bills irrespective of what a lobbyist might have said or somebody might have written in a memorandum.

I would like to have an honest debate about the bill rather than suggesting the motivations of Senators with respect to the positions they have taken.

One of my colleagues—in fact, it was the Senator from Illinois—asked the question, with regard to the vote we are about to take here, What are Republicans afraid of? In effect, are we afraid of going to the bill and then having votes on amendments? Let me answer that question very specifically.

One thing at least I am concerned about is that we will not get to have votes on amendments. We were promised, in the health care debate, this 2,400- or 2,700-page bill, that we would get lots of amendments to try to deal with the concerns we had. I believe it was seven—after seven amendments, once the leader got his 60 votes, there were no more votes. There was no more amendment process. There was no more debate. At that point, cloture was filed, the vote was taken, and he had his 60 votes. End of discussion.

There is nothing to suggest that if we go to this bill, we are going to have a fair amendment process. If that were made very clear by the majority leader, by the distinguished chairman of the committee, and Republicans had some sense that we would fare better than we did during the health care debate, then that would be one thing. But with the experience of the health care debate behind us, I think you can understand why we would be a little bit wary of ''just trust us, go to the bill, and we will let you have all the amendments you want to try to fix the bill.'' That is the first point.

Let me get back just a little bit to this issue about the bailout because I made an assertion and I need to back it up.

I really don't think any of us want to continue to have taxpayers on the hook. But this is complicated, and it may well be that the continuing authority, for example, of the FDIC that is specifically written into the legislation, while not intended to result in taxpayers being on the hook, it nevertheless does.

Let me refer to a couple of articles. One is by a visiting professor, a Georgetown University business school professor, Phillip Swagel. The head of the article is ''Yes, It's a Bailout Bill.'' He says:

> . . . [T]he discretion given to the government in the Senate proposal opens the door to undesirable actions such as allowing the administration to write checks to favored parties. This concern is not theoretical: such mischief took place in the bankruptcies of Chrysler and General Motors, as the two auto companies were used as conduits to transfer billions of dollars from TARP to the president's political supporters.

He is talking there about labor unions.

> A better approach would be a resolution regime centered on bankruptcy.

There is a lot of debate about exactly how to do this liquidation process, unwinding process, quasi-bankruptcy process, and so on. There are a lot of good arguments. It is difficult to do, and I appreciate that the chairman of the Banking Committee has had to deal with a lot of different ideas from different Senators about how to do it, as well as a lot of columnists, and so on.

But it is a fact that under the existing legislation, there is still liability for taxpayers here that concerns some of us. We would like to see a genuine discussion about taking that out. If it is a concern of all of us and we all agree that should not be, let's have a little good faith here and get it out before we come to the floor and have to try an amendment where there are 41 Republicans, 59 people who organize with Democrats, and we are not at all assured of being able to get it out of the bill.

Here is another article. It is in the National Review Online, April 26. The article is entitled ''The Case Against the Dodd Bill.'' They make several points in here, but one of them is this resolution authority.

> But the resolution authority designed by the Dodd bill might actually create more moral hazard than it would eliminate, because it would give the FDIC too much flexibility in how it resolves a failed firm.

It goes on to say:

> As structured, this authority would allow the Government to bail out nonbank creditors, and worse, to play favorites among them, just as we saw when the Obama administration gift-wrapped large stakes in the automakers for its union allies at the expense of secured creditors.

My point here is simply that there are a lot of people who have looked at this and have come to the conclusion, as I have, that the bill is not tightly enough written; that, as written, it has too much in it that would allow various Federal entities, including the FDIC, pretty unlimited authority to use taxpayer money to resolve or liquidate or deal with companies that are deemed necessary to deal with. I won't say ''too big to fail'' because allegedly we are eliminating that.

Surely we can get together and try to resolve this issue in a way that leaves no doubt that the ultimate conclusion is there is no more taxpayer liability. I think we would all like to see that. It is a legitimate debate to have, and I don't think we should criticize those of us who are raising these questions as somehow doing so because some lobbyist told us to. I don't care about the lobbyist or Wall Street here. What I care about is my constituent taxpayers being on the hook for a bailout of one of these entities or the creditors of these entities or the shareholders of these entities.

This is the final point I wish to make. This is like the Sherlock Holmes story of the dog that didn't bark. There is something missing from this legislation. If you look through the entire bill—and probably the biggest reason for the failure of our financial system was the fact that Fannie Mae and Freddie Mac were allowed to go whole hog, take on a bunch of bad loans, and end up with an implicit guarantee that ultimately became an explicit guarantee by the taxpayers of America. You won't find any resolution of that problem in this bill.

Why is it that, when everybody knows this problem began with a lot of loans being made to people who could not afford them—those loans then being acquired by Fannie and Freddie and then sold off in fancy, esoteric instruments on the market here—why is it that there is nothing in here about the risk of Fannie and Freddie and the risk they still pose? It is way north, apparently, of $400 billion—I have heard in the trillions of dollars—and this would be a taxpayer liability. If that is the case, shouldn't we be focusing reform on the entities that actually created the problem, Fannie Mae and Freddie Mac? Why isn't that being done?

The former chairman of the Banking Committee has explained. The Senator from Alabama, when he was chairman of the committee, tried to get more regulatory authority over Fannie and Freddie. Members of the then-minority, now-majority party stopped him and said: No, we don't need any more regulatory authority. I especially remember a quote from the chairman of the House banking committee that was especially colorful in this regard, that he thought we could give them a little bit more latitude here, that he didn't think any more regulation was necessary.

So the question is, If we knew there was a big problem a-brewing here, we didn't do anything about it at the time and after the fact discovered, of course, that is exactly what the problem was, why wouldn't we want to make sure that it will never happen again and that we somehow resolve the problem?

One of the answers given is that it is an awfully big problem to try to tackle. This is an awfully big bill. If we can reach into Main Street, to your local car dealer or dentist because your kid's orthodontia takes more than 4 months to pay on installments, surely we can deal with Fannie and Freddie, the biggest culprits of all in this deal. Why aren't Fannie and Freddie dealt with here? Let's not think we will do that next time. I think it is pretty clear that whatever we do here, we are probably going to be stuck with for a long time, and the failure to deal with this is a glaring omission in the legislation.

Nor do I think that if we grant the motion to proceed to the bill and one of us offers an amendment to cover Fannie and Freddie, that it would fare too well in this body. I will not specifically ask the chairman of the committee or anybody else whether they would support such an amendment, but the reality is that it is unlikely this body would actually regulate Fannie and Freddie. That is a reason why some of us oppose the legislation.

Unless there is some ability to negotiate something in advance of the bill actually coming to the floor, with very little likelihood that it would be done on the floor, it seems to me that this is another reason why those of us who have opposed cloture have every basis for coming here and saying that until we get some satisfaction, some suggestion that this problem is going to be dealt with, why would we want to proceed to legislation which obviously isn't even going to fix the biggest part of the problem that was created in the first place? That is a third reason why I think at least up to now Republicans have said we are not prepared to go to this legislation.

EXHIBIT 1

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, April 26, 2010.

DEAR SENATOR: On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, we urge the Senate to vote against cloture on the motion to proceed to S. 3217, the Restoring American Financial Stability Act of 2010. The current bill is too far reaching and imposes major new costs on small businesses.

After the near collapse of many financial firms and the impact this had on the overall economy, small business recognizes the need to ensure that our laws address the problems that can arise from such excess and to protect the broader economy from the failures of one sector. But these changes to financial services industry should be focused on the specific problems caused by Wall Street and the lessons learned from these events. New laws that target industries and businesses on Main Street that did not create the problem would not solve the problems and potentially creates new ones.

NFIB is concerned about the overly broad reach of the new Consumer Financial Protection Bureau. Providing consumers with clear and accurate financial information is an important goal, but because of the reach of the Bureau's authority many small businesses will find themselves subject to its regulations. In addition to the many new and duplicative regulatory burdens placed on community banks, the Bureau is charged with regulating any retailer or merchant that finances a purchase subject to a financing charge or a written payment plan with more than four payments. Many small business retailers and merchants—such as medical professionals, hardware, electronics, and jewelry stores—struggling through the current economic climate would be subject to these new regulations.

These small businesses had nothing to do with the Wall Street meltdown and should not be faced with onerous new and duplicative regulations because of a problem they did not cause. Further, as the most recent NFIB Small Business Economic Trends (SBET) survey shows, small businesses continue to struggle with lost sales and such regulations could make these problems worse—stifling any potential small business recovery. Placing more restrictions on the ability to attract and keep customers to small businesses will inhibit a strong recovery.

NFIB also has concerns with a provision in the bill that reduces the pool of angel investors that can provide start-up capital or invest in a small business. The provision sets higher wage and asset minimum requirements on angel investors, thus eliminating many highly qualified angel investors from providing needed financing. This provision would hamper the entrepreneurial opportunities for angel investment opportunities for many small and start-up businesses, thus adding another road block to finding alternative capital financing when bank lending and other sources of financing remains hard to get in this economy.

Small business still has not recovered from the economic downturn and has paid the price for the bad decisions and subsequent bailout of many large financial institutions. Addressing problems in the financial services sector makes sense, but such regulations should not overreach to include small business or leave small business owners paying for the excess of companies deemed too big to fail.

Thank you for taking into consideration our concerns, and we ask the Senate to oppose the motion to proceed to the current bill.

Sincerely,

SUSAN ECKERLY,
Senior Vice President, Public Policy.

Mr. KYL. Mr. President, might I inquire how much is remaining on our side?

The PRESIDING OFFICER (Mr. BURRIS). There is 10½ minutes remaining.

Mr. KYL. There is 10½ minutes on our side? I will yield to the chairman of the committee for a moment.

Mr. DODD. I thank the Senator from Arizona. My intention was—let me say a couple of things.

Mr. KYL. What I might do is yield the floor and reserve the remainder of the Republican time. In that way, if one of my colleagues comes and I have to leave, that time will be remaining.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DODD. I have reserved the last 7½ minutes. I think otherwise we might run out of time, I say to my friend from Arizona. I will just take 1 minute, if I may.

I want to tell him and say this to him. I have been here 30 years. I have chaired bills on the floor. I never chaired a committee before 36 months ago when I became chairman of the Banking Committee under our system. But I want to say this to my friend from Arizona and I want him to convey this to his colleagues through this vehicle: I would never deprive another Senator of the opportunity to offer amendments on the floor. I revere this body. I began my service in this body sitting on those steps over there as a page. And how the Senate works is because we all participate in the debate.

I know there are those who have this concern and fear. Obviously, you do not have unlimited debate forever. But the point is, amendments ought to be offered. I have colleagues on my side, politically, of the aisle who want to make this bill stronger, in their views. I know there are people who think I have gone too far with the bill and want to water it down a bit. That debate can only occur if we are on the bill. But I want my colleague to know, as one of the leaders of the minority, that I would never deprive another colleague of the opportunity to be heard, offer their amendment and their thoughts in that process.

Secondly, on the too big to fail, this goes back and forth. Senator SHELBY and I have worked on this. I see the possibility that—if there are some workability amendments that tighten that up, I am all for that. Senator BOXER of California has an amendment that would say that nothing in this bill can ever allow taxpayer money to be used. I am for that amendment. I don't know how many different ways we can say it. I think all of us agree we don't want to see our country go through that again. So the only limitations here are, do we think we are finding additional language here that will satisfy us that we have done the job we think we have intended to do? Senator SHELBY and I talked about how to do this. Again, if that is the holdup, that should not hold us up because we are both committed to that.

Thirdly, I want to say that there is a document circulating with some ideas of a Republican alternative that includes getting into the government-sponsored enterprises. I say to my friend, it is a huge issue, the GSEs. It is not just Fannie and Freddie; there are others. It needs a lot of work.

But this proposal I have read—and it is not legislative language—a lot of it, I don't have any problem whatsoever. I am not sure who the author of this is, but it has been circulated. Again, I am not endorsing everything here because it is just a concept, but if that is an amendment, the better part of what I have seen, about 90 percent of what I have seen here, I have no problem with at all. That can be an amendment included as part of our bill. But, again, I have to get to it. The difficult problem I have is everybody is coming with things they would like to add to or subtract from the bill, but, as my colleague knows, having been a leader around here for a long time, you have to get to the product. That is my frustration here.

Lastly, I am not going to bore him with too much detail here, but in section 1027—and I won't read all of it—the last lines on limitations, because of the concerns people have about dentists or other people being drawn into our consumer protection section say:

Notwithstanding subparagraph (B), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a merchant, retailer, or seller of nonfinancial goods or services that is not engaged significantly in offering or providing consumer financial products or services.

And, again, to insulate against the very worry you would have, and others have talked about, the NFNIB, someone who has four installment payments—it may be your local grocer, people who show up and buy food and do not pay for it, but usually at the end of the month or the end of 6 months, you have to be in the business of financial services or products to be affected by the legislation.

Now, again, I know there are Members who have problems with that part of the bill. People on my side who want to strengthen it think I have not gone far enough on the bill. One of the difficult jobs is trying to reconcile differences that exist. But I cannot even begin to do so if we cannot even talk about it.

So that is my frustration as the chairman of a committee, trying to get us to a point where all of us want to be, I am sure. We do not want to leave here having said we did not really deal with this problem that everyone in the country—I know, Arizona, what you have been through in your housing issues is staggering. Florida, California, Arizona, I think Nevada probably rank in the most difficult States where housing prices have declined and foreclosures have occurred.

I know my friend from Arizona feels as strongly about this as I do. But I assure him, I will not deprive anybody of an amendment to be offered at all in the process. Secondly, we will try the workability issues on too big to fail and, again, language we have worked on on the consumer protection, and we think we took care of those dentists and others who were worried about it.

But, again, others may have amendments and ideas. I will have to consider them on the Senate floor, and all of us will have to vote on them. But I appreciate him giving me a little time to express my thought.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. If I may respond very briefly, I appreciate the Senator's comments. I am sure the chairman would acknowledge the basis for some Republican concerns about the ability to offer, not an unlimited number of amendments for the purpose of filibustering the bill, but, rather, enough to try to solve what are perceived to be the problems of the bill.

Part of the problem is a lack of trust. There are some on the Democratic side who have said they believe the intent of the Republican leadership, or Republicans, is to filibuster this bill so there would be no bill. It is hard to prove a negative, but I do not know how many times Leader MCCONNELL and I or Ranking Member SHELBY have said that is not our intention. Everybody acknowledges that there is work to be done in the regulatory regimes that govern the trade in these very esoteric instruments, the derivatives and others, and regulating financial institutions and dealing with the problem when some of them become financially troubled. Everybody acknowledges the need to do that.

I firmly believe at the end of the day there will be legislation passed that deals with that. I do not think there is anything the minority could do, even if it wanted to, to stop legislation from ultimately passing. So to those colleagues on the other side who believe it is the Republicans' intent to stop the legislation, to have no legislation, all I can say is, yet one more time, that is not true.

I do not know of a single Republican who believes that, of a single Republican who does not want to see legislation. Nor do I believe this is analogous to health care in that there was a strictly partisan approach taken there. The lines were drawn, and we do not have to debate how we got there. The reality was, at the end of the day, Republicans were trying to do everything we could to stop the legislation, and the majority did everything within its power to ultimately get it passed.

That is not the same situation I see with this bill because, first of all, I think Members are a little closer than was the case on health care. Secondly, there has been at least a negotiating process between the chairman and the ranking member and others that has suggested ways to at least approach some of these problems.

Republicans are suffering under no illusions that with a 59-to-41 Senate lineup we should get 100 percent of the way or even 60 or 50 percent of the way. Senator SHELBY has made it clear he understands he needs to compromise because the majority has more votes than the minority does, but to try to get at least a proportional or representative sample of Republican ideas in here.

Moreover, as my colleagues' conversations just revealed, there is a lot of overlap in intent. I do not think we intend the bill to reach into Main Street to the degree that some of us are concerned it still does. I do not think there is the intention to see taxpayers still on the hook to the extent some of us think the bill still does. And to the extent the chairman of the committee says there have to be ways to ensure that does not happen, and we can do that, I accept what he says in good faith. I also accept in good faith his view that amendments, within reason, should not be limited.

Again, there is no intent on the Republican side to filibuster the bill to prevent a vote from ever occurring. I do not think we would have that ability even if we wanted to do that. So we have to get over this problem of trust. Another way to do that is to lead by beginning to make a difference in the way that the—not the legislation is discussed, but the Senators are discussed, the motivations for different Senators.

It would be easy to come to the floor and talk about motivations. It would also be wrong. I think the leaders in the debate, starting with the leadership and then the chairman and ranking of the committee and on down, perhaps have had some responsibility to take the lead in making sure in the discussions on the merits of the bill—when I raise a particular issue, as the chairman just did, to say: Well, let me go to the language and see if I think we do have it already covered, rather than: I know why you are saying that, Senator from Arizona. You have some ill motive. The Senator would not say that. So perhaps we can begin to reach a better sense of trust where we can begin to work through these things in a much more constructive way by taking the leadership and getting a more civil conversation.

When I say that, I point to nobody in particular as in violation but rather point to myself and the other leadership as the place to start with setting that tone. All of these things could begin to build the trust that might enable us to begin to engage each other.

The PRESIDING OFFICER. The minority's time has expired.

Mr. KYL. How time flies when you are having fun.

And to conclude a process that will be constructive and helpful to the American people.

Mr. DODD. Mr. President, let me thank the distinguished Republican leader for his comments. Part of what he just said is worthy of note. This institution suffers. We operate on unanimous consent. That is the way it works. And inherent in unanimous consent is trust. It is the only way this institution has ever operated.

There has been, I think we would all have to acknowledge, a breakdown for a lot of different reasons. We have to get back to it. This is an opportunity to do that.

Senator SHELBY and I have a very good working relationship. We trust each other. We talk to each other. We spent an hour together. We are meeting again at 5:00, after this vote today, to talk about one way or the other where the bill is. There has to be a return to that comity and understanding, while we have differences of opinion.

If the American people believe we cannot trust each other, when I say I will—I was asked at our conference lunch, again, the very question that my colleague from Arizona raised: Will I be allowed to offer an amendment, Senator DODD? Absolutely, you will.

So it is a concern I know that everybody has about whether they can be heard on these matters. I would never, as a person who reveres this institution, want to deprive anybody of an opportunity to be heard on a matter as important as this.

We have amendments I know are offered. I heard them—the cosponsors—one Senator today listed the cosponsors of an amendment he wants to offer. There are more Republicans than Democrats on the amendment dealing with the Federal Reserve System. I have some concerns about that amendment. But the fact is, it has bipartisan support for an amendment they want to offer. There are a lot of these ideas. I know within the Republican circle there are divisions as well as to what ought to be in this bill. We have them on our side as well. It is not as if there is some bright line here, and there is one solid thought process over here, and an alternative one over here. We have about as many different views on this bill as there may be Members in this body.

But all I ask for is to get to this bill. Let's get to this debate. Again, the leader got up and said this was a partisan bill. I have worked very hard to avoid that. Back in November when I introduced the bill, there were objections on the minority side as well as on the majority side. We put it aside. We have spent from November up until just a few days ago trying to put a product together that would reflect all of this different thinking. It is a vastly different bill from the one I introduced in November. I know it is not yet to everyone's satisfaction, but we need to debate this bill, in my view.

It will take a long time. This is not going to be a short debate. I know that. But we need to allocate the time talking about what is in the bill or not in the bill rather than questioning each other's motives as to why we are not on the bill, it seems to me.

So my plea is, again, as Senator SHELBY has said, I think we are about 80 percent in agreement. I believe that to be the case. If we are 80 percent in agreement, that ought to be enough of a basis upon which to move forward. If we were all in disagreement about everything, well, I might still believe we ought to debate it. So, again, I see my colleague—I realize he has to go, and we are going to vote in a couple of minutes. But I thank him for spending the time with me and to hear me out on these points. I am grateful to him for that.

Mr. President, those are sort of the points that I intended to make in these closing minutes of this discussion, once again. We had it yesterday, and here we are again this afternoon. With all of the things that people are going through in the country, it seems to me, again, this bill, which has been the product of a year and a half of work—this was not drafted over a weekend or some short period of time trying to reflect the interests of my colleagues—is deserving of our consideration.

I am not asking to vote for this with this next vote. No one will be asked to vote for this. No one will be asked to vote for any of the various amendments I am sure will be offered, and I will welcome, as part of this debate, and that Senator SHELBY and I as managers of the bill will consider them.

All we are being asked to do, in the next 7 minutes or less, is to give this product a chance to be discussed. This product reflects a year and a half of effort to answer the question: What went wrong that caused our economy and our Nation to go through the worst economic crisis since the early part of the last century? That is a legitimate question being asked. What are the gaps? What steps are we taking to fill in those gaps? Are there cops on the beat to protect us? Do they have the authority and the resources to do the job? Is there an early warning system? These are all issues upon which I suspect, based on my conversations over a year and a half—or more than that now—on which we have a lot of agreement.

I do not know of anyone in this Chamber who wants to support a bill that does not end too big to fail. If they exist, I have not heard their voices. I do not think there is anyone here who does not believe we should not have an early warning system so we can identify problems before they become the large ones that cost us as much as it has over the last year and a half.

I think all of us—I have heard my colleagues say they are for a consumer protection agency. I believe them. We have a consumer protection agency in this bill. There is a debate about how much authority we want to give them, the interface, the interaction with prudential regulators. Those are all arguments within the context of whether we ought to have a consumer protection agency.

There is not a position over here that I know of—maybe some have it—that they are just flatout against a consumer protection agency. Senator SHELBY has told me, and others on the Banking Committee: We are for a consumer protection agency. They have differences about what ought to happen within that. That is the purpose for having the debate. We are told again, we heard it a moment ago: We ought to have the bright sunshine on derivatives, these exotic instruments that were used, went from $91 billion in 1998, to close to $600 trillion—that is with a T—11 years later.

That shadow economy contributed significantly to what we went through. Based on what I have heard, everyone thinks we ought to do something about that and not leave the situation as it is today, as it was 18 months ago, because nothing has changed since then, putting our Nation at risk once again. So we agree on that as well.

Let's have transparency. Let's have accountability. There are differences; I would be naive and foolish to suggest otherwise. But everyone seems to agree we ought to do something about it. So if we look at the major thrust of our bill—end too big to fail; set up an early warning system to avoid the problems we saw in the past; deal with these exotic instruments out there and have some agency that at long last might keep an eye out for the average citizen in this country, that watches their credit cards, their mortgages, and so many other financial activities they engaged in that became deceptive and fraudulent, that they suffered terribly.

So we all agree on the basic goals outlined in this bill. Differences exist, at least in one or two of the years. Too big to fail, I do not think there is any real disagreement. I do not think there is any disagreement on the early warning system, as I have heard the debate. The differences exist in what happens inside the consumer protection agency and what happens in the area of the shadow economy and dealing with the derivatives and other items, but not whether we want to do something.

So that is what we ought to be doing.

The PRESIDING OFFICER. The majority's time has expired.

Mr. DODD. I ask unanimous consent for 30 additional seconds.

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

Mr. DODD. We have spent the last day debating whether we ought to have this. Let's vote to invoke cloture and begin the long debate we need to have. I urge my colleagues to do so.

The PRESIDING OFFICER. Under the previous order, the motion to proceed to the motion to reconsider the motion on the motion to invoke cloture on the motion to proceed to S. 3217 is agreed to, the motion to reconsider is agreed to.

The question is on agreeing to the motion to invoke cloture on the motion to proceed to S. 3217 upon reconsideration.

The yeas and nays are ordered under the rule.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

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

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—57

Akaka	Dodd	Kohl
Baucus	Dorgan	Landrieu
Begich	Durbin	Lautenberg
Bennet	Feingold	Leahy
Bingaman	Feinstein	Levin
Boxer	Franken	Lieberman
Brown (OH)	Gillibrand	Lincoln
Burris	Hagan	McCaskill
Byrd	Harkin	Menendez
Cantwell	Inouye	Merkley
Cardin	Johnson	Mikulski
Carper	Kaufman	Murray
Casey	Kerry	Nelson (FL)
Conrad	Klobuchar	Pryor

Reed	Shaheen	Udall (NM)
Reid	Specter	Warner
Rockefeller	Stabenow	Webb
Sanders	Tester	Whitehouse
Schumer	Udall (CO)	Wyden

NAYS—41

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

NOT VOTING—2

Bayh	Bennett

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to upon reconsideration.

The Senator from California.

Mrs. FEINSTEIN. Mr. President, is it appropriate for me to speak on the bill for a few minutes, please.

The PRESIDING OFFICER. The motion to proceed is pending.

Mrs. FEINSTEIN. Thank you very much.

Mr. President, on a big bill, I find this a very puzzling situation where for the second time the other side of the aisle has essentially said, We won't let you go to a vote on a motion to proceed to debate until there is agreement on the bill. How can there be agreement on the bill if there isn't debate and if the majority at least isn't allowed to present its position? I find on a bill of this size and the complexity of the bill, to refuse to go to a debate on the bill to be an amazing thing. I hope the other side of the aisle will begin to see that and relent.

I had a chance today to listen to some of the questions being asked in the Permanent Subcommittee on Investigations of Goldman Sachs, and if anything should show the need for this bill, it is what is going on in a Subcommittee of this body. Yet, out here, we cannot even begin the debate on the bill. We cannot hear from the chairman of the committee. We cannot hear from the ranking member. We cannot understand both points of view. We are prevented essentially from debating one of the most important bills this Congress will pass.

I wanted to come to the floor today to say that, as well as to speak in support of the derivatives position put forward on Monday by Chairman LINCOLN and Chairman DODD as part of the financial and commodities market reform package.

I think it is fair to say I have long advocated for more aggressive regulation of derivatives which, in the main, are very complex financial instruments exempted from Federal oversight through loopholes in the Commodities Futures Modernization Act of 2000. In other words, prior to the year 2000, we could regulate these. After the year 2000, they floated free, nontransparent, no audit trail, no antifraud, no antimanipulation oversight whatsoever. The Dodd-Lincoln bill is the most aggressive and comprehensive proposal to regulate the out-of-control derivatives market that has been offered yet in this Congress, and I strongly support it.

The Dodd-Lincoln bill will require robust Federal oversight. It will establish transparency. It will reduce systemic risk. I believe this bill is the best chance to tackle these unregulated markets that were responsible for bringing down Enron, AIG, Lehman Brothers, with terrible repercussions for the American economy and millions of hard-working families. This bill will also rein in reckless traders who lack a moral compass.

Today there is nothing more important than restoring faith in the American economy, and we cannot do it without this bill. To do that, we have to restore America's faith in our ability to take strong corrective action against the bad actors who perpetrated this crisis. Yes, this is our moment to act, yet we cannot. The other side of the aisle will not let it happen.

Derivatives were exempted, as I said, from regulation in the Commodities Futures Modernization Act of 2000. That law created massive regulatory loopholes such as the Enron loophole which prohibited the Commodity Futures Trading Commission from overseeing electronic exchanges; the London loophole, which allowed for unregulated trading of U.S. commodities on overseas exchanges, and the swaps loophole, which allowed for unregulated bilateral trades through brokers, swap dealers, and direct party-to-party negotiations. Together, these loopholes have been responsible for some of our Nation's worst economic crises. They must be closed.

I first became aware of the problem of unregulated derivatives during the Western energy crisis. The years were 2000 and 2001, when Enron traders fleeced Californians for approximately $40 billion in artificially inflated electricity and natural gas prices.

Without Federal oversight rules in place, it took us some time to realize what was going on in California, and then when we did, the party in power would not believe us. We learned the hard way the dangers of having no paper trail, no one to raise the alarm, no cop on the beat to enforce penalties.

Some experts told us this was just supply and demand. I even remember going to the White House and hearing these exact words. We didn't know that traders were in it just for greed.

That is why I will never forget the day Senator CANTWELL, another longtime champion for derivatives reform, handed me a copy of the taped conversations between Enron traders. These tapes from Enron's west coast trading desk demonstrated beyond a reasonable doubt that energy traders would do anything to make a buck.

When a forest fire shut down a major transmission line into California, cutting power supplies and raising prices, Enron energy traders celebrated. Here is the quote:

> Burn, baby, burn. That's a beautiful thing.

That is what a trader sang about the massive fire, which threatened homes and lives.

The tapes also confirmed that in secret deals with power producers, traders deliberately drove up prices by ordering powerplants shut down.

When California regulators tried to get money back from Enron, their traders joked this way:

> They're . . . taking all the money back from you guys? All the money you guys stole from those poor grandmothers in California.

That was the mentality. Another trader responded:

> Yeah, Grandma Millie, man.

This was an eye-opening experience, to say the least.

In 2002, 2003, and 2004, I offered four separate amendments to restore regulation to derivatives markets, and each time the President's working group on financial markets advocated against the amendments, and they went down.

Our Nation's financial experts argued that private parties would protect the public interest by looking out for their own interests, and Congress trusted our experts.

But the experts were wrong. They ignored the growing risk these products posed to our financial system.

In 2007, finally, the Senate took action to close the Enron loophole when it approved bipartisan legislation that I authored with Senator SNOWE and others. That legislation brought regulatory oversight to electronic commodity exchanges such as the IntercontinentalExchange, and it established antifraud and antimanipulation standards for our Nation's electronic energy futures markets. But then they went offshore and traded on the London exchange to avoid the law. We learned that soon there were other loopholes that remained open.

Beyond the reach of Federal oversight the derivatives market swelled to the size of $600 trillion. There were no rules to prevent systemic failure, fraud, or manipulation. No one ensured that these products served any commercial function beyond gambling, and no one worked to make sure traders understood the products they traded.

It turns out traders often use the stockholder value of major financial institutions to gamble in markets they did not understand—with bets large enough to put the entire financial system at risk.

They bet on oil. They bet on natural gas. And with the creation of the credit default swap, they began to bet on each other's demise.

New exotic financial products were dreamed up, such as the recent one to trade movie box office futures, which was proposed by Cantor Exchange this year. What public benefit is served by trading box office futures? All it does is create a huge problem for the motion picture industry.

In 2008, AIG and Lehman collapsed under the weight of unregulated financial derivatives. But this time it was not only Western energy consumers who suffered. The unregulated derivatives market brought our entire economy to its knees.

That is why it is so vital that we learn from this experience and implement the derivatives reform proposals that have been put forward by Senators LINCOLN and DODD.

Let me take a few moments to describe some of the bill's key positions.

It will require every trade to be reported in real time to the Commodity Futures Trading Commission, so regulators will know for the first time what is actually going on in these markets. They will be transparent; they won't be dark markets. Everyone will know.

It will require standardized high-volume trades to be cleared through a regulated clearinghouse. This will ensure that everyone in the system gets paid even when one trader defaults. Had we had this system in place, AIG's collapse would not have posed a systemic risk.

Swap dealers who sell uncleared contracts to end users, which are more risky than cleared trades, will be subject to significantly higher capital requirements enforced by the CFTC in cooperation with bank regulators.

The bill helps small commercial end users such as utilities or trucking companies hedge their risks, but major financial institutions and mutual funds will have to conduct their trading in regulated markets. That is a good thing.

It will require all cleared contracts to be traded on an exchange or on a swap execution facility. Trading on exchanges or execution facilities provides for pretrade transparency—again, light—which is necessary to fully understand and manage the risks being taken by market participants, to provide more efficient and accurate pricing, and to facilitate more cost-effective risk management.

It will require speculative position limits to be set in the aggregate for each commodity, instead of contract by contract. Position limits provide an important restriction on market manipulation and the amount of risk that can build up in any one market participant.

For the first time, the CFTC will be able to prevent speculators from assembling massive positions in a particular commodity, such as oil, by assembling large positions in multiple contracts. See how they do that.

Traders can now simply buy positions in Brent Crude Oil when they have exceeded limits in West Texas Intermediate crude oil, and that makes no sense. See, it is a way to hide the size of your trading position.

Aggregate position limits will prevent manipulative practices, such as those deployed by the defunct hedge fund Amaranth in 2006, which assembled massive positions in two separate natural gas contracts and manipulated one in order to profit on the other. Let there be no doubt about this, Amaranth settled and paid a huge fine in substantial millions of dollars.

Further, the bill will close the London loophole so they can't go around American law, by requiring that Foreign Boards of Trade adhere to minimum standards comparable to those in the United States and report all trading activity to United States regulators on a timely basis.

Finally—and perhaps most importantly—the bill will prevent FDIC-insured retail banks and banks with access to the Federal Reserve discount window from engaging in the extremely risky practice of swaps dealing with a government guarantee. That is important.

This innovative and important provision effectively implements the Volcker rules and protects taxpayers. So you can see what a big provision this is—remember, it was derivatives that brought the house of cards down. Now there will be transparency, clearing, and position limits. I very much thank the chairman of the Banking Committee for negotiating with Senator LINCOLN and achieving this. It is a monumental gain.

I very strongly believe that all swap activities and commercial banking should be distinct, so that taxpayers do not supplement, subsidize, guarantee, or insure the riskiest activities of large financial institutions.

There is no denying that opponents of the bill are trying to come up with new and creative ways to block this bill.

With so much at stake, it is not surprising that allies of the big banks and Wall Street lenders have already launched a multimillion dollar ad campaign to frame the debate and fight these changes. They are cynically twisting the facts to assert that this legislation will perpetuate more bailouts in the future. Nothing could be further from the truth. The big Wall Street firms that caused this crisis have hired lobbyists to portray Wall Street reform as something that is bad for taxpayers.

The loudest detractors of financial regulatory reform claim that it will be another government intrusion in the free market. Well, we have found out that the free market is not self-regulating.

Recently, the Wall Street Journal reported that opponents of regulatory reform have adopted talking points distributed by a messaging firm whose clients include Bank of America, Chase Card Services, and UBS. The memo suggests that the best way to kill the bill is to link it to the big bank bailouts.

My colleagues on the other side of the aisle have adopted these talking points and are doing everything they can to block this critical bill. This is both dangerous and absurd. If we have learned anything from the recent past, it is that the disorderly failure of massive financial institutions is extremely destructive.

For the first time, with the passage of this bill, we will have a process in place to ensure the most minimal disruption necessary in order to wind down failures on Wall Street. That is what this is about. And the $50 billion is not government money. The $50 billion is a fund that the companies contribute to, which is held in escrow by the government so that if it has to be used, it can be used.

I stand behind Chairman DODD when he emphasizes the level of bipartisan negotiations that have gone into the bill before us. But bipartisan compromise does not mean withholding support until you get everything you want. Financial reform is not a zero-sum game. We need solutions, not threats to block meaningful reform of our financial markets. Without strong reform, every American who has been blindsided by the profit-above-all-else mentality of Wall Street will lose, lose, lose, and that is what is at stake in these cloture motions.

Anyone who has taken basic economics knows markets only function when market participants have good information—in fact, perfect information and when the transactions occur free of fraud, abuse, and manipulation. Handing control and oversight of financial markets to the biggest Wall Street banks does not produce a free market with good information, free from abuse, as has been painfully illustrated over the last few years.

Accusations of fraud against Goldman Sachs, announced the Friday before last, underscore the need for financial reform. Goldman Sachs will have their day in court, but the allegations against the firm cry out for greater transparency at giant Wall Street banks.

Let me return to where I began. I was 1 of the 40 Senators on the telephone in September of 2008, when both Secretary Paulson of the Treasury and Ben Bernanke of the Federal Reserve talked to Senators and said—and I am paraphrasing, but this is the sum and substance of it—we are a hair's breadth away from a major collapse of the entire financial marketplace of our country, and it will be worse than the Great Depression if it happens.

I never expected to hear that. I never thought these market activities could do that. To some extent, I believed the market was self-regulating, but it isn't. We found that out in spades. I think we are deleterious in our duty if we do not address this, if we do not fully debate it on the floor, if everybody who hears the debate doesn't understand what the evils are that are out there; that naked swaps, that credit default swaps need oversight, that hedge funds without any regulation must have transparency, must be regulated, and that trading must go over an exchange. This bill accomplishes that. This bill protects the American people.

I can't understand why anyone would not support this bill. If truly what we believe in and what we came to this office for and what we took our oath of office for was to protect the American people, this bill is mandatory. Not to do it is malfeasance of duty, in my view. Not to let us move forward with a robust debate, to waste time with cloture votes day after day—and it looks like they will continue—I believe is improper. To demand that a bill has to be agreed upon by both sides before it is even debated on this floor as a major bill is something that in this day and age, with the economic troubles of this Nation, I thought we would never ever hear.

So the bottom line is: Now is the time to act. Now is the time to close the gaps in regulation. It is time to hold the big banks accountable to the people they serve. It is time to put a moral compass into trading. It is time to ensure that taxpayers will never again be forced to bail out big banks because they are too big to fail. No bank is. That is what Wall Street reform will achieve. That is why I feel so committed to making it happen and why I am asking for the support of all our colleagues.

Senator DODD and Senator LINCOLN have assembled the strongest provisions of each of their respective bills into a proposal to reform the bilateral swaps and derivatives market that is more effective than any proposal to date. So I wish to thank both of them for their leadership in bringing this bill to the floor. I am very proud to stand with them, along with my long-time colleagues in this effort, Senator SNOWE, Senator CANTWELL, Senator DORGAN, Senator HARKIN, Senator BROWN of Ohio, and Senator NELSON of Florida. They have worked for a long time to bring about strong regulation of the derivatives market.

So the question remains: What will happen? Will this bill be allowed to see the light of day? Will this bill be able to regulate fraud and manipulation? Will this bill be able to see that the American taxpayer is protected so we can say, truly, in good conscience: Never again will this happen in the United States.

So I say to the other side: Stop this nonsense. Let this bill come to the floor. Come down to the floor and debate it. Vote against it, if you don't like it. That is the American way. I don't believe that when a bill comes out of committee by a majority vote, regardless of how that majority is achieved, whether it is bipartisan or the product of one party, that it should be refused debate on the floor. We have a chance to change that. I hope the Republicans will. I hope we will debate and pass this bill.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Georgia.

Mr. ISAKSON. Madam President, I rise for a second to talk about the financial services bill. I do want to say something in advance of that, and I am sorry Chairman DODD is not on the floor.

This Friday is the last day Americans can go under contract on the first-time homebuyer tax credit and the move-up tax credit. I had the privilege of working with the banking chairman on that legislation in the fall of last year—and its extension—and I felt a sense of reward today when the announcement came out that for the first time in 36 months home values in the 20 test markets in the United States actually went up by six-tenths of 1 percent. That is not a lot of money, but it is the first time in 36 months. The chairman created an environment to allow that debate to take place, and this Senate voted 100 to 0 to pass it and the American people have benefited from it.

As I tell so many who call me, it is not going to be extended because credits such as that are designed to do what it has done; that is, to bring the marketplace back and hopefully stabilize values and move forward. I commend Senator DODD for setting up the environment where that could take place.

That brings me to my point on the bill before us. Senator FEINSTEIN did an excellent job of talking about Wall Street and some other people who certainly need to be held accountable where there wasn't any transparency, contributors to the problem, and the terrible problem the derivatives caused in the whole mess. But there is another story out there I wish to bring up, because when we do get to the debate on this bill, it is my hope we will truly have a debate and an amendment process because there are some things not in this 1,407-page bill that ought to be.

What I specifically want to talk about is Freddie Mac, Fannie Mae, Moody's, and Standard & Poor's. When the market began to collapse, a lot of those derivatives that were talked about were bets, one way or another, against the housing market, which in many ways had been overheated in America because of the approval of something known as a subprime mortgage. But the devil in those details that caused us so much problem is that there was originally no market for subprime mortgage. They were B, C, and D credits. They were downpayment assistance loans. They were higher risk loans by their definition, but they got securitized and two things happened: First, Moody's and Standard rated them as investment grade, AAA investment-grade securities; secondly, Freddie and Fannie, at the behest of the U.S. Government and its Congress—us—started buying those securities to meet the desire to have more affordable housing in America, a noble goal but a goal that was being achieved by loaning people money who could not pay it back, by loaning them the downpayment they didn't have, by not validating their credit, their employment or anything else.

So when this thing did collapse, when everything went down and went down fast, it was, in large measure, because Freddie and Fannie created the marketplace that started the buying of these securities around the world, these mortgage securities, No. 1. Equal with that is Moody's and Standard's rating them as investment grade when they obviously were not.

I would think that as we move toward a debate on this bill, when that time comes, and it will come, that it will be a bill that includes Freddie and Fannie and includes Moody's and Standard. I do understand there are some references to Moody's and Standard, but I will submit to you that the best accountability on Moody's and Standard is for them to be paid by the purchasers of the securities, not the creator of them, because then they are accountable to the people who actually get stuck holding the bag, not to the guy who created them and dumped them and ran, which is some of what Senator FEINSTEIN was talking about.

I also wish to talk about the quality of lending. There are provisions in this bill that talk about shared risk and risk retention. There are provisions for a mortgage banker to retain 5 percent of the risk in a loan. That is a well-intended move, but as I said the other day on the floor and as I reminded people in this body, when the savings and loans collapsed, when the RTC, the Resolution Trust Corporation, was created—and that crisis cost the American people $\$^3\!/_4$ trillion—savings and loans in America didn't have 5 percent of the risk, they had 100 percent of the risk. They made those loans with deposits they had of their depositors and they were paid back over time. But when we took away their preference for deposits on $10,000 or less against the banking industry, and when—because they began losing money—we allowed them to form service corporations and get into businesses they didn't know anything about, they finally collapsed and imploded with 100 percent risk, not just 5 percent.

So I would submit another thing that needs to be incorporated in this is for us to put in some underwriting standards—minimum standards—so anything that doesn't meet them has to be an insured mortgage by an MGIC or a PMI. We should go back to the good old days of the 1960s, 1970s, and 1980s, where you had to have a job and a verification to borrow money, where you had to get a credit report, where you didn't have a windshield appraisal, where an appraiser drove by on the street, but a legitimate appraisal, where they valued a property, and where you couldn't borrow money that would cause you to spend more than 25 or 30 percent on your monthly payment as a percentage of your gross income or a total of 38 percent on all debts you had, including that payment, for at least a year or more in duration.

The real estate industry, the housing industry in America, with those very standards—which were the standards of the 1960s, 1970s, and part of the 1980s—ended up having a vibrant housing market, with 65 percent home ownership—the largest of any country in the world. But when Wall Street got greedy, when our idea of forcing Freddie and Fannie to be purchasers of resort, when all those things were created, the rush came to make the mortgage, to sell the paper, to produce the income that the investor wanted, and the quality of the house, the qualification of the buyer, and the legitimacy of the loan came in question.

So I look forward to the point in time when we get to this debate that we will talk about three things: No. 1 is that Freddie Mac and Fannie Mae were, in fact, government-sponsored institutions and today are a lot more government sponsored than they ever were. No. 2, if we exempt them, we leave the potential and the temptation for them to be used as a dictated purchaser of certain kinds of paper that will get us right back into the same situation. If Moody's and Standard do not have an accountability to their rating standards, when something such as the subprime loans happen, we will be leaving open the opportunity for most of what happened that was the principal cause of the collapse to happen again. I think we have a responsibility not to do that.

I hope to become a part of a debate on that part of this legislation that closes the loophole, that takes away this idea that if you just have a 5-percent shared risk, it is a safe loan, and instead make sure the underwriting to the borrower is what we count on because, after all, that is going to be how the money is paid back. We know for a fact that Freddie and Fannie were a major part of the problem, and we know that lack of quality underwriting was a major contributor to the quality of the security. Somewhere it ought to be addressed. But in these 1,407 pages, to the best of my reading and looking, it is not. That is unfortunate and it is a mistake. I hope, when we get to the final debate, we will correct that error or else we will not have addressed a major contributor to the problem for our taxpayers and our voters and our citizens.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, while the Senator from Georgia is still on the Senate floor, I want to say it is great to have him back. He has been back for a couple of weeks, but he had some pretty serious health challenges and it is good to see him back on his feet and in full voice.

He mentioned in his remarks for the first time about 3 days ago the home buyers tax credit, which actually expanded a little bit the second time through, is coming to a halt, and we are seeing this enormous volume in terms of sales of homes in this country in no small part because of his leadership on this issue over the last year or two. I was pleased as a former member of the Banking Committee to be involved in that and encourage my colleagues to support what was a very good idea.

The other thing I want to say while he is still on the floor is, he and I don't agree on everything, but we agree on a lot of stuff. I would like to invoke the 80–20 rule, which Senator MIKE ENZI from Wyoming talks about. I used to say to him: Why do you and Ted Kennedy—when he, Senator Kennedy, was with us; they were senior Democratic and Republican on the Health, Education, Labor and Pensions Committee—I would say to MIKE ENZI, he is one of the most conservative Members of the Senate, and Ted Kennedy, arguably one of the most liberal Members of the Senate: How come you and he can get so much done in a very productive committee, regardless of whether Ted Kennedy was the chairman or MIKE ENZI was the chairman?

MIKE ENZI used to say: Ted and I believe in the 80–20 rule; 80 percent of the stuff we agree on, 20 percent of the stuff we don't agree on. What we decided to do is focus on the 80 percent on which we agree, set aside the 20 percent we don't agree on, and we will come back and worry about that another day.

I think, hopefully, at the end of the day we will decide to do that. There is a whole lot more on which we agree than we don't agree. My hope is we will have an opportunity to bring this bill to the floor and do what we used to do in the Senate; that is, we have people actually offer their amendments, we have a chance to debate those amendments, and we vote them up or we vote them down; that one side wouldn't line up all together to vote against those amendments, and the other side line up to vote for them.

I think with a lot of amendments Republicans and Democrats have actually gone across party lines, and it will depend a lot more in some cases on geography, in some cases on the business climate in a particular State or the nature of their businesses.

We will have a couple of days voting not for cloture, not to bring the bill to the floor; I would say to my colleagues I will be voting with them, working with them on some of their amendments, and my hope is they will do the same on some of mine. But I hope we can get past this sticking point and actually do what we are sent here to do; that is, to legislate, to govern, and I know that is what is in their hearts as well. I wanted to share that.

Mr. ISAKSON. If the Senator will yield, I thank the Senator for his good wishes. I always enjoy working with the distinguished former Governor, now Senator from Delaware, and I look forward to that moment where we are finding that 80 percent common ground.

Mr. CARPER. It is out there. I thank my colleague. I want to take a minute or two to have us step back and think about how we got into this mess with the housing bubble and all that literally led us almost to the brink of disaster in this country.

Part of what happened is market forces were not allowed to work. Regulation was not enforced. The regulators were in many cases, too many cases, asleep at the switch. But I will talk a little bit about the housing markets.

I am a guy, as a Governor and as a Senator, I always pushed real hard—and as a Congressman before that—pushed real hard for home ownership. I love the idea that people own their own home, own a piece of the rock. For a lot of people the biggest part of their life savings is the home they own. They use that not just as shelter but to help send kids to school and borrow against for all kinds of things and at the end of their lives to live off of, in some cases, the equity in their homes. That is a good thing.

That is not to say everybody ought to be a homeowner. In some cases there are some folks who ought not to be.

As the housing market heated up and the housing prices were going up, folks assumed they would go up forever. They didn't. Few things go up forever, and that includes housing prices.

We had a number of folks looking around at other people who wanted to become home owners. People who did not have the ability to become a homeowner, didn't have the financial wherewithal to become a homeowner, were sucked in or duped into buying homes. They took on exotic mortgages in the hopes they would somehow be able to pay for those and the value of the homes would keep going up over time and people would come out whole. It didn't work out that way.

I think part of what went wrong, aside from the assumption that housing prices would go up, is the fact that regulators were asleep at the switch. The other thing that went wrong is kind of a basic concept that to make markets work, for there to be some market discipline, there has to be skin in the game.

Others have talked about this even today on the Senate floor. We had, in some cases, mortgage brokers who would say to people who did not have the ability to be homeowners: Don't bother telling us what your income is or showing us what your income is. You tell us you are OK and your income is good, we will take your word for that.

In too many cases that happened, and the regulators allowed that to happen. We had mortgage brokers originate a mortgage and pass the customer on to a bank or mortgage banker. They would write the mortgage, allow the mortgage to be done, and the person ended up with a home. They ended up with a mortgage. The mortgage was passed on, maybe bought by Fannie Mae or Freddie Mac, and they bundled them together, a bunch of mortgages together, and created an investment instrument through securitization. Those securities were then kind of blessed by the credit agencies.

The credit agencies, the mortgage brokers, made their fee, and they were out of it. The bankers made their fee, and they were out of it. Fannie and Freddie got some kind of fee, as I recall, for securitizing the loans, and they were kind of out of it. The credit agencies made their fee and they were out of it. We ended up with folks owning these securities, in some cases, all around the world.

We sliced and diced these securities and they were acquired by different investors. Too many of the players in this business didn't have any skin in the game. At the end of the game, when folks started defaulting on the mortgages, not making the payments, those investments in mortgage-backed securities which were out there owned by different bunches of investors turned into what I call Swiss cheese. They had a lot of holes in them, holes created when folks stopped meeting their mortgage payments and eventually, instead of turning into Swiss cheese, they in many cases became illiquid, unmarketable, and they gathered, in some cases, on the books, the balance sheets of financial institutions.

Despite all these tricks we tried to create and gimmicks we tried to create or financial tools we tried to create to deal with the risk, they didn't all work. In the end it came tumbling down.

Among things we want to do, we want to make sure in the legislation we are working on regulators actually regulate. Second, one of the things we want to make sure of is we actually, when we are asking somebody what their income is, we want to verify it so some people don't end up taking on risks they obviously can't meet. We want to make sure people have skin in the game, the banks, the financial institutions have skin in the game; that the shareholders of those institutions are at risk; otherwise, what reason should they have—why should there be any discipline? There will not be in too many cases.

There are some people who think we ought to mandate capital standards and risky activities, raise the capital standards, and we should do that by mandates or legislative fiat. I don't know if that is a smart thing to do because we are working in this international marketplace, and our financial institutions, if they have certain capital standards that are dramatically different from the capital standards or requirements for liquidity different from other countries, that sort of puts our institutions at a disadvantage, a competitive disadvantage. We have to make sure our regulators are coordinating with other regulators around the world and we actually do have standards so financial institutions, when they are involved in risky behavior, the capital requirements are higher and the liquidity requirements are higher.

The last point I want to make, today somebody gave me some—I don't know if you call them talking points, if you will, what our vision is as Democrats, the idea we are on the side, not so much of the financial institutions, certainly not necessarily on the side of Wall Street, but we are on the side of regular people, many of whom have been damaged by all this.

Among the points I would want to leave us with in terms of the things we are for is, we want to have in place strict new regulations to stop Wall Street from gambling with money, our money, in the end. We are not interested in more taxpayer bailouts. The idea of creating this $50 billion fund that will be paid for by financial institutions themselves, to contribute to that so later on when these big institutions get into trouble, we actually have the money literally there, available to use to shut them down and retire them in an orderly way that doesn't disrupt the financial system, that is one of the things we are for.

We are going to try to end too big to fail. We want to put a new cop on the beat in terms of consumer protection for consumers, at least working with the largest 100 or so institutions that have over $50 billion in assets among the bankholding companies, and we—I think this is important, too, a reminder in the course of this debate—we want to put consumers in control with information in plain English.

As I listen to this debate and a lot of folks coming to visit with us and talk about the issues before us, we can probably use more plain English on the Senate floor than not. Sometimes I hear my colleagues, certainly our staffs and folks who visit with us, talking about stuff that reminds me of the old saying—remember Albert Einstein's Theory of Relativity? Somebody once asked Mrs. Einstein: Mrs. Einstein, do you understand your husband's Theory of Relativity?

She said: I understand the words but not the sentences. That is what she said: I understand the words but not the sentences.

I hear some of the debate on some of what is presented to us. I understand the words, but some of the sentences I understand but not all of them. I want to make sure at the end of the day when we are finished and we bring the bill to the floor and offer amendments, we actually understand the sentences and not just the words of the amendments and actually write defined legislation, go through conference with the House, and actually do understand not just the words but the sentences, the paragraphs, the pages, and the whole kit and caboodle so at end of the day we will have taken some big steps to greatly reduce the likelihood we are ever going to have to go through this again—certainly not in our lifetimes and certainly not again ever.

I know the things I mentioned that serve our Democratic vision—I hope the Republicans would share that. I think in many cases—maybe on an 80–20 basis—they probably do. If we ever get a chance to get a bill to the floor, we will find out. In the end, I think we will find out there is a lot on which we agree; that we will find common ground, we will address this issue and move on to other important issues and challenges that face our Nation.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

Mr. DURBIN. Mr. President, again today, for the second day in a row, we have failed to break the Republican filibuster on the Wall Street reform bill. The votes are very clear. With one or two Democrats out—one who is opposed to breaking the filibuster and the other absent—there was not a single Republican vote in support of moving to the debate on the Wall Street reform bill.

Tomorrow, there will be another opportunity, and it appears the other side, the Republican side, of the aisle is deciding they do not want to debate this issue. The Senate as an institution is designed to give people a chance to express themselves, both by votes and amendments they might offer. That is what we have offered.

It is interesting to me, this bill which is before us, the Restoring American Financial Stability Act—I am just checking on how many pages it is; we count pages around here now—is 1,400 pages. OK. And I am not being critical of the size of this bill. It is a big challenge to make sure we pass the laws that are necessary to promote financial stability.

But it was not but a few months ago that the Republicans were arguing that the health care reform bill was so big that we had to have it right out here in front of us and we should not be negotiating behind closed doors with secret negotiations on the bill; it ought to be right here on the Senate floor; let's have the amendments. Now comes this bill on Wall Street reform, and the Republican position is exactly the opposite. They say: We do not want to have an amendment process on the floor; we want you to agree ahead of time behind closed doors on what the bill is going to say. I do not know if they have noted the inconsistency of their position, but it is fairly clear.

I think they probably have some good ideas to change this bill. I am anxious to see their amendments. I think we have some good ideas to improve the bill. I would like to offer a few amendments. It is almost sounding like the U.S. Senate, isn't it—amendments on a bill and votes and speeches and debate. It really sounds like the good old days here. But we do not have the good old days anymore. We just lurch from one vote to an empty floor to the next vote to an empty floor to the next vote. People who are following this debate on the outside have to be wondering what we are trying to achieve.

Unfortunately, for some, what they are trying to achieve is absolutely nothing. They want to stop the Senate from acting. They believe it is in their best political interest—maybe in the best interest of the country, from their point of view—that we do nothing.

How could you take that position when it comes to Wall Street after what we have been through as a nation? How could you take the position that we should do nothing when it comes to the Wall Street banks and financial institutions? These banks and financial institutions got away with murder when it came to corrupting our economy and leading us into the most painful recession in modern memory. How could you take the position, as some Republicans have, that we should not debate or vote on a bill to try to avoid that catastrophe from recurring? That, to me, is so basic and fundamental.

It strikes me that the American people have it right. They understand what we have been through. They understand that after the great minds of Wall Street made the greatest mistakes in modern economic history, they came whining and crying to the Federal Treasury to bail them out. They asked for hundreds of billions of dollars from hard-working families across America to get through their individual economic crises at their banks and their financial institutions. I will concede that I voted for that idea because the alternative was a disaster in our economy.

Well, after sending the money to Wall Street, they showed their gratitude by giving one another bonuses, multimillion-dollar bonuses, for their bone-headed stupidity that led us into this mess and then deciding that once they were solvent again and moving forward, they would stop loaning money to businesses across America that are trying to survive and get out of this recession. It is the ultimate in irresponsibility, and it is what we have come to expect from some of the people on Wall Street.

I mentioned earlier that many of us have been reading this book, ''The Big Short'' by Michael Lewis. He tells the story of how we got into this mess, how these people dreamed up ways to create these financial instruments, which almost defy description, where they would take thousands of mortgages from all around the United States and package them into a little bundle and put some code name on them that only the insiders could understand and then decide to sell them in pieces—tranches, they called them. And they were betting that the value of real estate would continue to go up and the default rate would not. They guessed wrong on both accounts. The default rate on these rotten mortgages increased and the underlying value of the homes and businesses and other entities began to decline and the bottom fell out. Lewis tells the story about those who saw it coming and ended up making a lot of money because they shorted the market, as they say. They guessed that the real estate bubble was going to burst. How many more times do we need to go through that as a nation before we change the rules on Wall Street in terms of their conduct and what they can do?

We think it is time. This bill is a product of the Senate Banking Committee and a lot of hard work. Senator DODD, the Democratic chairman of the committee, met for several months with the Republican Senator who ranks No. 1 on that committee, RICHARD SHELBY of Alabama, and they could not reach an agreement. Senator DODD then said, I will meet with Senator CORKER of Tennessee, also on the committee, and sadly that didn't result in an agreement either. Then Senator DODD said, Let's have a hearing and let's put this bill right on the table and let people offer amendments to it. The Republicans prepared over 400 amendments to this bill, and when Senator DODD convened the committee, they refused to call up a single one of them—not one of them—to be put on this bill or voted on.

So the bill comes to the floor in that situation and the Republicans refuse to let us move forward. That is because under the Senate rules we need 60 votes. We only have 59 on a good day here, and we clearly need Republican help to move this bill forward. They have decided as a party caucus to stand by Wall Street and to stand against reform. I don't understand it. I can't imagine that they are hearing anything that is different than what I hear when I go home. When I go home, basically people tell me that they believe it is time for accountability from the banks and the speculators on Wall Street and they believe we ought to do it now. They want to see us put a cop on the beat. They want to see the government keeping an eye on these big financial institutions, establishing standards of conduct, establishing margin requirements so we know they are not overextended again as they were leading into this recession, and they want to make sure we are doing something that is going to avoid a replay of what we have just been through.

There is another aspect of this bill. When I spoke to one of the Republicans during the vote today, I said to him: What is the problem here? Why aren't you joining us in this Wall Street reform? Don't you hear the same things at home that we do?

He said: My big concern is the consumer financial protection agency in here.

Well, I am the wrong person to raise that issue with, because I happen to believe in it. We have created safety standards for the inspection of certain products across America. When you buy toys for your kids during the holidays, you want to make sure they don't have lead paint on them or tiny pieces the kids might ingest and choke on. The Consumer Product Safety Commission is supposed to watch out for those sorts of things, and they do. But when it comes to our financial instruments that we have as part of our daily lives, there is no real watchdog. I am talking about mortgages on our homes and credit card agreements, student loans, automobile loans, retirement plans, things that make a big difference in our lives and that can go bad and cost us dearly. This bill sets up within the Federal Reserve an agency for consumer financial protection. It will be the strongest consumer financial protection law in the history of the United States, and it isn't a massive bureaucracy. What it basically does is empower consumers across the country so that when they sit down to sign an agreement, the basics are explained to them. It also puts that watchdog in place to keep an eye on those banks when they start sneaking in new terminology, these tricks and traps that can explode on you at a later date. That is the part this one Republican Senator said has to go. We don't want this consumer financial protection.

Well, the Senator may not want it; the banks don't want it either. They don't want someone looking over their shoulder, but I think the American people not only want it, they deserve it after what we have been through.

I was standing in the airport in Chicago on Monday on my way out here and a fellow came up to me, a businessman in Chicago, and said: Oh, what a coincidence. I am on my way out to see you.

I said: Good.

He said: I am here so that we can exempt our business from the Consumer Financial Protection Agency.

I said: Save the money on the airfare, because I am not voting that way. I don't think we ought to start carving out all of the different special interests and business groups that want to come here and say we are the good guys, we are not the cause of the problem. The fact is if they are, in fact, good guys and good gals, if they are honest in their dealings, if they are treating customers honestly, if they are conscientious and ethical, what are they worried about? This is an agency we have created to go after the bottom feeders, the predators who are out there taking advantage of consumers in the name of consumer credit.

This has happened so many times in the time I have served in Congress, where you come in and say, We want to protect consumers from the worst in the financial industry, and the big banks come in and say, Oh, no, it is just a foot in the door. Pretty soon they will be looking at us too, and they stop any kind of basic surveillance.

Right now in Illinois—in fact, a couple of blocks from where I live in Springfield, IL—are a couple of operations that take this to the extreme—Payday Loans, Title Loans, Same Day Loans. It is an outrage. It is an outrage that my State lets them get away with it. They have tried to tighten up the law a couple of times, but these folks are slippery. They find a way around it. They charge outrageous interest rates. They are rolling over these debts time and time again until these people are absolutely out of luck. They have nowhere to turn.

I introduced a bill, a cap on interest rates, a usury bill, and I said if you want to meet every creepy, crawly, slimy reptile in the financial industry, introduce a usury bill, and they will all slide under your door to come in and meet with you and tell you how you just don't understand. Yes, they will say to me, it is 108 percent a year annual interest, but it is not what you think it is. It is what I believe it is, and it is a rip-off of consumers that has to come to an end. I am joining with Senator KAY HAGAN of North Carolina to put an end to some of these business operations. I don't think they do any good for America.

It has been about 10 years ago now that Senator Jim Talent, a Republican from Missouri, put an amendment on a bill that didn't attract much attention. The amendment he put on exempted military families from being business clients of these payday loan operations. Why would he exempt military families? Because the Pentagon had reported to him that in many military installations around the United States, soldiers—Air Force, others—were borrowing money from these fly-by-night operations, couldn't pay it back, and got so deeply in debt they had to be discharged from the service. Men and women trained in our military, because of the debt they had incurred as a result of these rotten operations, fly-by-night operations, had to leave the military service, and the Pentagon was saying to this Senator and others, We invested a lot of money training that person and now they are gone.

So we said 10 years ago that we were going to provide that these payday loan operations could not lend money to military families, and it passed and became the law. Well, if we are protecting military families and our national interests, why aren't we protecting all families? That is my point of view. I think Senator KAY HAGAN of North Carolina shares that point of view and I want to make sure we move forward on that. I also want to make sure interest rates are regulated. There is a limit to how much should be charged. There are people who exceed that limit and take advantage of those. Those are the kinds of things that are at issue here.

So this week, if you tried to follow what is going on in the Senate, sometimes there has been a big yawn, because the floor is empty. No one is here, because we are lurching to the next filibuster vote. We are going to ask the Republicans again tomorrow: Now is it possible for us to bring up this bill, a bill that will put consumers in control when it comes to some of the most basic decisions they have to make? Now is it time to have strict new regulations to stop Wall Street gambling from happening again in our financial sector? Now is it time to make sure that the agreements we enter into are in plain, understandable English?

Now is the time to end taxpayer bailouts once and for all. Banks and financial institutions, not American taxpayers, should foot the bill for their own mistakes. If the Republicans object to that, offer an amendment. Stand up here and say, I think we ought to be ready to bail them out.

I don't think they will. Also, it is time for consumers to have the information they need to compare rates so they can make the financial choices that are right for them and their families.

American voters get it overwhelmingly. They want us to pass this bill. But the Wall Street lobbyists get it too. This morning an analyst came forward and said the Wall Street firms are spending $120,000 every day on Capitol Hill for lobbyists. They are working the phones. They are working the corridors. They are doing everything they can to kill this bill. These special interest groups have a lot at stake here. If we do, in fact, come through with this reform, the party is going to be over at some of these banks and they know it, so they are fighting it tooth and nail. If we have a consumer financial protection agency, they are going to change the way they do business. They won't make as much money. They are going to be held to honest standards and they don't like it. So they are spending a fortune begging the Republicans to continue this filibuster to stop the Wall Street reform. I hope a few Republicans will break ranks and join us. If they do, I think many others will follow, but it will take a few courageous, forward-looking people to step up and say, That is enough. Two filibusters in a week is enough.

By Wednesday—by tomorrow—if we can get three or four Republicans to step up, we can start an honest, bipartisan debate that leads to the kinds of reforms we need to make our economy stronger, create more jobs, and protect American taxpayers from ever being soaked again for another bailout.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. 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. WHITEHOUSE. Mr. President, I am here because for the second day in a row the Republican minority has once again sided with the Wall Street bankers and taken their side in the battle the American people want us to have to clean up Wall Street and see to it that the kind of economic damage that reckless gambling by Wall Street created across our whole economy never happens again.

We want to bring sensible, firm oversight to these Wall Street banks, and we want to create an independent consumer financial protection agency so that there is an institution out there that is looking out for the little guy, the person who can't hire a lobbyist or a lawyer and who has to take it or leave it when the bank comes calling.

The history of what brought us here is instructive. It says a lot about the motivation of what is going on on the Republican side.

We began with the most colossal bank failure and economic meltdown since the Great Depression. This body had to appropriate hundreds of billions of dollars to prop up the financial sector and save it from complete and utter collapse from a global financial meltdown. That is how dangerous the way Wall Street was playing was. It took us right to the brink of global financial meltdown and required unprecedented—and unpopular—actions by Congress to keep that from happening.

You would think the lesson everybody would take from that experience is that Wall Street needs to change, that there needs to be regulatory reform. This cannot be allowed to happen to American families again because wild speculators on Wall Street are playing unregulated games with other people's money. But from then until now, we have seen no Republican bill. Chairman DODD laid down his first bill on November 19, 2009, and the Republicans didn't answer with an alternative of their own. There was no basis from which to negotiate back and forth. They just criticized his bill, and that was that.

Negotiations continued—persistent negotiations—to try to get some Republicans to support Wall Street regulatory reform, and they led nowhere. Were Senators negotiating in good faith but being reeled in at the end by the leadership? Was it just a way to waste time with false negotiations to keep us from getting to this business? I don't know; I am not a mind reader. But what I do know is that there was no Republican alternative.

Eventually, Chairman DODD said: OK, we are going to hearing. We have our bill. Bring your amendments. Let's have a public debate in the Banking Committee about how we regulate Wall Street.

On March 23, Chairman DODD convened that markup. I know our committee members came expecting a long haul. They were expecting late nights and many days. They were expecting the kind of effort we saw when we did the health care reform bill, and I had the pleasure to serve on the HELP Committee with Chairman DODD. Day after day, week after week, hundreds of hours of hearings we went through amendment after amendment after amendment. We accepted 160, I think, Republican amendments in that process. We still didn't get their support, but at least there was a public discussion.

But when the Banking Committee took up this bill, with that same expectation that there would be long, arduous hours of hearings, argument, public debate, and amendment, what did they get? The ranking member said: We have no amendments. We don't care to discuss this. Call up the vote on the bill. We don't want to do anything in the public light of day. Vote the bill out.

So the chairman had no choice but to do that. He had no choice but to vote the bill out with no amendments. So here we are. We have gone from the worst financial disaster the country has seen since the Great Depression until this point, and the Republicans have no bill, no reform to offer. When it comes to their first opportunity, when their hand is forced in the committee to bring in amendments, they have no amendments, nothing to say.

Now we try to move to the bill, and here we are—stuck.

We are not here voting on the bill, we are here trying to get their clearance to bring up this bill to discuss it and go through the Senate process of debate and amendment and they are objecting to that.

So what is the common theme of a party that has no bill, that offers no amendments, and that wants no floor debate? The common theme of those things is wanting to cut deals in the dark, wanting to have their deals not see the light of day until they are already buried in a bill. Some of them would probably even turn around and object to some of the things they argued to get in.

We should be prepared to do the public's business in the light of day. In fact, after the most public process we have ever seen on health care, we took criticism from the other side for a couple occasional moments when people got together and cut a deal. But those were the exceptions in a hugely public process, ranging across several committees that took weeks and months, in which everybody knew where we were going, what we were doing, and what our priorities were to help the American people. This is the exact opposite. They do not want to do anything in the light of day. They do not have a bill where they are prepared to show the American people what their ideas are. When you say to them: OK. Our idea is, how would you change those, they have nothing to say. They do not want to debate, discuss or amend.

When we call them to the floor to say: OK. Here we go, let's have this discussion for the American people, they say: Nope, we don't want to have a discussion, not until we have cut our deals, not until we have gone into backrooms and cut our deals, not until we have delivered for Wall Street in backroom deals we wouldn't bring to this floor because we know what they would look like in the bright light of day.

That is where we are. Frankly, it is unfortunate and it is a shame for the American people because every day we continue with this is another victory for the Wall Street mischief. Every day we are delayed is another day that the champagne corks are flying out the window of the investment banks on Wall Street as they celebrate the fact that more highly leveraged gambles can go through because we haven't regulated them, more mortgage brokers can go out and sell junk mortgages to folks and take advantage of them with conditions that are buried deep in the fine print that they do not see. More people can get stuck in credit card tricks and traps that are unregulated by an independent consumer financial protection agency to stand up for them. Of course, the CEOs continue to get huge bonuses without the kind of governance this bill would put over executive compensation.

Why do they do it? Well, the relationship between the other party and Wall Street is pretty well known. It has been publicly reported that leaders of the other party went running up to Wall Street not too long ago to have their favorite closed-door, private meetings in the shadows, no publicity, no press. They would not discuss what took place in those meetings, but you know they went up there to offer their services to Wall Street to help defeat this legislation. They just don't want to talk about it.

So that has been pretty well established, and it runs afoul of the desires of the American people. Two-thirds of Americans want us to take action. As those of us who have spent time in public life know, usually people care about issues that relate to them very immediately. They care about pocketbook issues. They care about their family, the roof over their head, their paycheck. For a lot of folks in America, Wall Street is a long way off, and it is almost a kind of hypothetical concern for a lot of Americans. But they have it, just as strongly as they care about the economy right now. Because they know Wall Street has been taking advantage of America for too long; that the risks of it for ordinary families, when it gets out of control, are too great; and that Wall Street needs to be reined in. They know that, and that is why they want us to act.

That is why it is a shame that the minority party is refusing to allow us to even go to the bill and have a public debate in the light of this Chamber, in the light of day, about our ideas. We have told the American people what our ideas are. They are in the bill. Here are our ideas: Our ideas are a strong Consumer Financial Products Safety Commission—an independent consumer financial products protection agency to look out after the little guy.

How often have you looked at a credit card application and seen how many pages of small print are in it? Look at a mortgage. Look at any kind of commercial credit. In all that small print, the lawyers and the lobbyists have done their work. Too often, it is the person who signs on the bottom line who ends up discovering they signed up for a raw deal. Nobody is looking out for them. Nobody is putting at the top of the contract: Green light. This is fair. We have taken a look at it. Safe, good to go, Good Housekeeping Seal of Approval—or yellow light: Careful. You might want to truly know what you are doing before you sign up for this—or red light: Bad deal. Dangerous for consumers. Look out.

Simple, helpful information for American consumers to get, an independent commission to help advise consumers in those ways and have some regulatory authority over the people who put those products together, that is what we want in this bill. It is not fancy. It is not tricky. It is just a way to unwind the ''gotcha'' contracts that too many Americans have had to put up with for too long because Wall Street and the bankers have been writing those contracts and there hasn't been discipline over them.

So that is one of the ideas we are out there with. If they have a better idea, where is it? I don't want to deal that away in the dark. Come to the floor and tell us in the bright light of day what better idea you have than a consumer financial protection agency that is independent and out there to help the ordinary folks.

We would also consolidate bank regulators so that a big Wall Street bank can't shop around and decide which regulator it wants to have regulated. You don't get to choose your ref when you go to play a game, and you shouldn't get to choose your regulator when you go out into the field of commerce. It allows game playing and it is not right.

We should strengthen regulation over all financial firms and no more allowing them to change their charter to avoid rules they do not like. That is not complicated. That is simple. It is clear. It is our position in the bright light of day. If they have a better one, where is it? I am not going to deal that one away in the dark. It wouldn't be right.

There are provisions that would crack down on CEO compensation, to make sure shareholders have a real say in executive pay and to make sure, in particular, that the compensation committees of the board that sets executive pay aren't just the pals and the golfing buddies of the people whose multimillion-dollar pay and bonuses they are approving; to make sure it is independent directors who are on the compensation committee and making those decisions. That is our position. It is clear. It is out there in the bright light of day. It makes sense. If they have a better idea, bring it. We are happy to listen to it.

But this room is empty of Republicans right now. There are no ideas, there are no alternatives. All they want to do is deal this stuff away in the dark and it is wrong. They will, however, attack it. They will say that a provision in this bill that provides for the banking industry to fund an orderly failure and wipeout of an existing bank so the government doesn't have to come in and bail it out, because there is no provision for an orderly failure, is actually taxpayer-funded bailout legislation. I mean, they couldn't be more wrong. The argument doesn't even make sense.

For starters, there is no bailout. The bank isn't bailed out. It is put out of its misery, but it is put out of its misery and sold off in an organized way. So as far as a taxpayer-funded bailout, there is no bailout. As far as it being taxpayer funded, it is industry funded. There is no taxpayer money in the deal at all. We make the industry pay to basically have a funeral plan for their colleague banks that fail so the taxpayer doesn't have to be there.

They turn that completely inside out, and they do so why? Not because it is true—we know that—but because they have a pollster who has taken a poll and who has discovered that, guess what, the American public doesn't like bailouts and doesn't like bailout bills. So, aha, the geniuses discover they are going to call this a bailout bill because that makes it seem unpopular. It doesn't matter that it is not true. A little confusion never hurts when you don't have a position of your own that you are willing to bring out in the light of day. But that is what they have to say about that provision.

That is actually a provision that I think makes a lot of sense. There has to be a way to have an orderly failure of a bank that goes insolvent so the taxpayer doesn't have to come in and prop it up because people worry, if one goes, is there a run on the bank? What does this mean for the global banking system? You have to have a way for banks to fail, for managers to be fired, for shareholders to lose their money, for all the consequences for failure in a real market system to happen but in an orderly way. That is what the bill does.

So you can go through this bill idea by idea, and I am willing to stand by the Democratic ideas. I actually have some amendments, if we could get to this bill, that I would like to see called up because I think we could improve it. I would love to see us reverse a decision called the Marquette decision—a decision by the Supreme Court that said the rules for a bank are determined by the State where the bank has its headquarters—where it is domiciled, and if there is a conflict between a State law that protects the consumer and the State law for where the bank is, it is the home of the bank that wins.

Well, now, how did that all work out? What happened is the banks figured out the States that have the worst consumer protection laws in the country and they moved there. Not for nothing does your credit card usually come from one of just two or three States.

The result of that is that the power of the States of the United States of America, the sovereign power of the States of the United States of America they have had since before the Revolution to protect consumers from exorbitant interest rates, from rates that were called usury because they were too high, illegally high, was taken away from them. Nobody in Congress made that decision. It slipped through in the back of the Supreme Court decision all those years ago and the industry saw their opportunity and they adapted. If you want to know why you are paying a 30-percent interest rate on your credit card when your home State has an interest rate cap of 18 percent, it is because of that decision.

I am for putting that choice back in the hands of the States to protect their own consumers from these global, international, multinational banks. Global, international, multinational banks, huge Wall Street banks could not give a hoot about Rhode Island. But if they have to obey Rhode Island law, that is another question—Rhode Island law or Colorado law or California law or Vermont law; you name it. The States should be able to protect their consumers the way they always had until this decision—it is part of American history—from exorbitant and cruel interest rates. So I would like to see that amendment.

But the bill as it is, is something we can be proud of. It is a shame that here we are with two votes now back to back, with the Republicans refusing to allow us to even enter that debate. I have wracked my brain to try to think of a way to explain why they are doing this. There are not any good reasons.

One is to prevent progress on anything, anything and everything—the politics of obstruction. If it has President Obama's name on it, if it would reflect well on him no matter how important it is to the American people, forget it. Job No. 1 is to deny any victories, any support to Obama irrespective of the merits. We have seen plenty of evidence of that and maybe that is the reason.

Reason No. 2, they have interests, special interests they want to protect—Wall Street interests, banking interests, people who do not want to see an independent consumer financial protection agency looking over consumer contracts and sticking up for the little guy. That could be another reason. That would explain why they do not want to put their positions on the record anywhere. That is why they will not write a reform bill. That is why they will not put forward a reform amendment in the committee. That is why they will not come to the floor and allow us to debate this bill.

They know their arguments are running against the public interest, the concerns of the American people and the needs of our country, and are just to protect Wall Street. They don't want that in public so they are willing to have this fight. They are willing to blockade even going to this bill, just for the purpose of protecting the darkness in which they want to cut deals to protect Wall Street and the special interests behind them.

That has to stop. Like many of my colleagues I am prepared to stay here, to keep banging away at this, to come and vote over and over again, to spend days and nights on this issue until we get the job done. I take some comfort from some of the stories of history, one of which is the Biblical story of Jericho. When Joshua and the Israelites surrounded Jericho, they didn't go and negotiate and ask them would you please open the door, we will give you what you want. No, they went around the city, time after time—seven times they went around the city of Jericho, blowing their horns, blowing the ram's horn. On the seventh day, on the seventh tour around Jericho, when they blew their horns, Joshua said to the Israelites: Let out a great shout. And they let out their great shout and the ram's horns blared and the walls fell flat.

Maybe it will take seven times around this bill before the walls of obstruction the Republicans have put up to protect the dark deals they want to do for their special interests fall. Maybe it will take seven times. Maybe it will take 17 times. Maybe it will take 27 times. But when you look at the damage that Wall Street caused to this country with its speculative, dangerous practices, with its unregulated, uninhibited excesses, this is important.

This is one we need to win for the American people. This is one we need to win for the safety of our economy going forward. This is one we need for every family that lost their job because the financial catastrophe washed through the business they worked for. They have never been to Wall Street, they have no interest in the financial industry, but they are as out of work as anybody else because of what splashed and sloshed across this country from what happened on Wall Street.

Those are people we cannot forget. Those are people we cannot let down. Rhode Island still has the third highest unemployment in the country. We are in our 27th month of severe recession. It has been compounded by historic flooding that has 2,000 Rhode Islanders still out of their homes. The flooding sure isn't Wall Street's fault but it compounds the harm that Wall Street inflicted on the entire economy, and it focused so intensely in my home State of Rhode Island.

As far as I am concerned, we are here, we are here to stay, we are going to get this done, and we cannot be discouraged by the Republican obstruction.

I see the majority leader on the floor. Would it be convenient to yield to him?

Mr. REID. I so appreciate my friend extending his usual courtesy.

CLOTURE MOTION

Mr. REID. Mr. President, I offer a cloture motion which is at the desk, and I ask it be reported.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 349, S. 3217, the Restoring American Financial Stability Act of 2010.

Christopher J. Dodd, Blanche L. Lincoln, Jeff Bingaman, Mark Begich, Charles E. Schumer, Arlen Specter, Robert Menendez, Benjamin L. Cardin, Daniel K. Inouye, Jack Reed, Edward E. Kaufman, Byron L. Dorgan, Richard J. Durbin, Tom Udall, John F. Kerry, Sheldon Whitehouse, Robert P. Casey, Jr.

Mr. REID. Mr. President, I ask unanimous consent that following a period of morning business tomorrow, Wednesday, April 28, the Senate resume the motion to proceed to S. 3217, with the time until 12:20 p.m. equally divided and controlled between the leaders or their designees; that at 12:20 p.m., the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to S. 3217, with the mandatory quorum waived.

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

Mr. REID. Mr. President, I thank the Senator from Rhode Island.

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

Mr. WHITEHOUSE. I thank the majority leader for his steady and strong leadership through these times.

I yield the floor and 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. WHITEHOUSE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, 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.

SUSPENDING THE 2011 COLA

Mrs. BOXER. Mr. President, I support the recent actions by both the Senate and House of Representatives to suspend the 2011 cost of living adjustment for Members of Congress.

Although there has been encouraging news on some sectors of our economy, too many Californians are unemployed or underemployed. It is fitting that we forgo a cost of living adjustment at this time.

ADDITIONAL STATEMENTS

TRIBUTE TO STANLEY G. JONES

● Ms. CANTWELL. Mr. President, I wish today to pay tribute to the well-respected tribal leader and proud veteran of the War in the Pacific with the U.S. Marine Corps, Stanley G. Jones, Sr., ''Scho-Hallem.''

Mr. Jones is retiring after more than 40 years of service to his people, the Tulalip Tribes, of my State of Washington. Mr. Jones served on the Tulalip Tribes Board of Directors for the past 44 years; longer than any other Tulalip tribe member.

Mr. Jones helped guide tribes in the Northwest through their legal battle to regain lost treaty rights, culminating in the Boldt Decision of the 1970s. He was instrumental in reviving the traditional First Salmon Ceremony in 1976, the practice having been outlawed by the Federal Government in the early 1900s. He was the first Chair of the National Indian Gaming Task Force, and helped set tribal policy regarding the usage of proceeds from Tulalip tribal ventures.

Mr. Jones was a strong advocate for economic development. He led the Tulalip Tribes' efforts to invest their lands, and worked to create jobs and opportunities for his tribe's people, and those in neighboring communities. He also endeavored to provide educational opportunities, health care, housing and senior services to tribal members.

Mr. Jones will be sorely missed but his legacy is in the growing respect for treaty rights and tribal sovereignty that he leaves behind. Today his vision is being carried on by a new generation of tribal leaders.

I take this opportunity to wish him a long and well-deserved retirement.●

REMEMBERING MARY THURMAIER

● Mr. FEINGOLD. Mr. President, today it is with sadness that I remember the life of Mary Thurmaier, who passed away on April 25. I was fortunate to know Mary, who did so much for her community and for our state.

Mary was a tireless activist and volunteer. Perhaps her most significant contribution of all was her 24 years of service on the Stevens Point Area School Board, from 1982 to 2006. Mary, a devoted mother of four herself, spent her nearly two and a half decades on the board working to strengthen public education for the children of Stevens Point. She focused much of her considerable effort on critical issues like early childhood education.

Mary also served a vital role for her community when she managed the Point Area Bus Cooperative before the city took over the operations. She did a tremendous job in that position and later went on to serve as director of the Stevens Point Convention and Visitors Bureau. She also served as a Democratic national committeewoman for Wisconsin.

Above all, Mary was a beloved wife, mother, and grandmother. My thoughts are with her family and friends today, as so many mourn her loss. I know all of us are grateful for Mary's life and her many contributions to Stevens Point and the State of Wisconsin, which will live on for many years to come.●

MESSAGES FROM THE HOUSE

At 10:13 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4543. An act to designate the facility of the United States Postal Service located at 4285 Payne Avenue in San Jose, California, as the ''Anthony J. Cortese Post Office Building''.

H.R. 4861. An act to designate the facility of the United States Postal Service located at 1343 West Irving Park Road in Chicago, Illinois, as the ''Steve Goodman Post Office Building''.

At 2:15 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 3253. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

ENROLLED BILL SIGNED

The PRESIDENT pro tempore (Mr. BYRD) reported that he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

S. 1963. An act to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes.

ENROLLED BILL SIGNED

At 6:30 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 3253. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4543. An act to designate the facility of the United States Postal Service located