

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

The PRESIDING OFFICER. The majority leader is recognized.

AMENDMENT NO. 3739

Mr. REID. Mr. President, there is a substitute amendment at the desk. I call up that amendment on behalf of Senators DODD and LINCOLN.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DODD, for himself and Mrs. LINCOLN, proposes an amendment numbered 3739.

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

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

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

AMENDMENT NO. 3737 TO AMENDMENT NO. 3739

(Purpose: To prohibit taxpayers from ever having to bailout the financial sector)

Mr. REID. Mr. President, I now ask the clerk to report the Boxer amendment No. 3737.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. BOXER, proposes an amendment numbered 3737 to amendment No. 3739.

At the end of title II, add the following:

## SEC. 212. PROHIBITION ON TAXPAYER FUNDING.

(a) LIQUIDATION REQUIRED.—All financial companies put into receivership under this title shall be liquidated. No taxpayer funds shall be used to prevent the liquidation of any financial company under this title.

(b) RECOVERY OF FUNDS.—All funds expended in the liquidation of a financial company under this title shall be recovered from the disposition of assets of such financial company, or shall be the responsibility of the financial sector, through assessments.

(c) NO LOSSES TO TAXPAYERS.—Taxpayers shall bear no losses from the exercise of any authority under this title.

Mr. REID. Mr. President, the managers of the bill wish to give opening statements on this important legislation. I ask unanimous consent that Senator DODD be recognized to use whatever time he feels appropriate, that Senator SHELBY then be recog-

nized to use whatever time he feels appropriate, that Chairman LINCOLN then be recognized to make a statement, and following that, Senator CHAMBLISS, the ranking member of the Agriculture Committee, and then Senator WARNER, a member of the Banking Committee, wishes to make a statement. I ask that be the order.

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

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, we are beginning debate on the floor of the Senate of a matter that has obviously been the subject of great discussion and debate over the last couple years. My remarks will be very brief. I have talked a lot over the last week or so about the bill. I presume I will be spending a lot of time in the coming days. I do not need to spend a lot of time now. My colleague and friend from Alabama, Senator SHELBY, wants to be heard and others want to be heard this afternoon. I will be here to engage them.

I begin by thanking and commending my colleague from Alabama. We have disagreements about this bill. He is a good friend and someone I work with closely, as we will on this bill as we move forward. We want to accommodate Members on all sides to be heard, to offer their amendments, to have a good debate. We would like to accommodate and accept amendments where we can. If we cannot, we will try to lay out why or offer alternative ideas as we move through this debate.

Obviously, it is very important we get this right. Senator SHELBY has said that many times, and I agree with him. It is very important. Literally, language, punctuation marks can have implications. It is that delicate as we work through language. My intention is to get there.

Today we are going to have general debate on the bill; tomorrow possibly some additional debate. We will pick up our first amendments on Tuesday when we get back. I wish to address that point in a minute, if I may.

I wish to begin the debate with a message for those who have seen the acrimony in the Chamber over the past couple weeks and have concluded that the Senate is not up to getting the job done on legislation of this import and this size.

I will be the first to admit that sometimes we become discouraged and disappointed with each other. That is the nature, I suppose, of a legislative body when we have as many different and strongly held views. I, myself, was frustrated with how long it took to bring the bill up on the floor. Others are frustrated by what they see in the bill. All of this can be a rationale for why we express our frustration.

The thing that made it possible to get to this point is the same thing that will make it possible to get to the finish line on this important legislation; that is, the trust we have, that we are each committed to getting the job done.

As Senator SHELBY and I both pointed out last evening, we have worked closely over the past 37 months that I have chaired the Banking Committee. I mentioned we brought 42 measures out of our committee, 37 of which have become the law of the land. While we do not agree on this bill or at least not all of it, we are both confident this legislation can become law as well if we work hard and together and achieve common ground, even if it is not exactly as we would want if we were writing it on our own. I think it is what our colleagues in the country think of us.

Simply put, we have no other choice but to do so. The status quo is unacceptable. We cannot leave the American people vulnerable to the present construct of our financial regulatory system. The American people have paid too high a price for the failure of our system to stop Wall Street greed and recklessness from undermining the stability of our economy.

We heard over and over that we have lost 8.5 million jobs and 7 million homes lost to foreclosure or are in foreclosure. Trillions of dollars—some say \$11 trillion, some say \$13 trillion, some say higher—trillions of dollars of household wealth has been lost in the last 18 months; home values—again, the number everyone agrees on—a 37 percent decline in home values across the Nation. In some States, the numbers are much higher. We have seen a decline in retirement income by some 20 percent as well across the Nation.

All this was not cause by one particular event or set of circumstances. There was a variety of circumstances, the culmination of which and the expansion brought us to the brink of financial collapse and disaster.

I described the aims of our legislation. First, it ends "too big to fail." Senator SHELBY and I have been working on that issue. We have had long discussions agreeing on principles and what needs to be done. My hope is, in the first part of next week—our staffs are going to work over the weekend to take the principles on which we have reached some agreements and then do the delicate job of writing the language that reflects those principles and ideas.

I thank my staff as well as Senator SHELBY's staff for trying to get us to a point where we reach a level of comfort, that we have done what we said we were going to do; that is, to end too big to fail. No longer will there be an implicit understanding that if a major financial institution or even a less-than-major financial institution starts to fail somehow it is going to get propped up by taxpayer dollars. Our colleague from California, BARBARA BOXER—we heard already the language of her amendment which will once again add a voice to this effort to say, when losses occur, too big to fail will never expose the American taxpayers to writing a check to have to underwrite that cost.

I presume there may be others who have ideas on how best to nail this

down. We welcome those ideas. Again, Senator SHELBY and I will work on an amendment we intend to offer the first part of next week that reflects those values as well. I thank him and his staff and others for the time already spent. I cannot count the hours we have spent sitting with each other, talking about these ideas and how best to achieve them.

Obviously, we want to involve as well the Treasury Department and others for their advice and counsel because they ultimately will be asked to implement a lot of what we have talked about. We will be busy over the coming days as well on those issues.

Senator BOXER's idea—I discussed this with Senator SHELBY already, and without committing anyone at all, there seems to be, at least at this juncture, a relatively good response or reaction to what she intends to do. Too big to fail has been a subject of major conversation. We all agree what we want to achieve. The question is, Can we do this? I am confident we can.

I would like us to begin on a positive note as well. There will be times during this debate where we will be at very different sides. That will happen, as it should be. There is nothing wrong with that. I think it is better to begin a process where you can agree on issues and sit down and come to common understandings. Too big to fail is an area where there is no disagreement about what we are trying to achieve. That is a great starting point. My hope is we can do that in the coming days.

We create an early warning system. This has not been the subject of a lot of debate. I think we all agree that to have the ability to watch and monitor what is occurring, both domestically and internationally, is very important.

We have established what we call a systemic risk council that will allow us to observe what is occurring on a regular basis so we can spot these problems before they metastasize and grow into, as we have seen, problems that created as much harm for our economy as the present recession has. I will not go into the details of it, but I think there is a general agreement that this makes a lot of sense.

We bring derivatives out of the shadow and into the sunlight so Wall Street is accountable for actions. I do not sense a lot of disagreement on what we are trying to achieve. There is some disagreement on about how this is best worked.

I am hopeful that in the coming weeks we can resolve these differences as we deal with these exotic instruments. Clearly, getting more sunshine, more transparency we think will be a great asset as well.

Finally, we put cops on the beat with consumer protection so Americans can make smart decisions based on full information when they are planning for their financial futures. There is general agreement having a consumer protection agency or bureau or division makes sense. There is disagreement on

what the powers of that agency will be, how it should operate, how it can be working. We have to work on that issue to see if we can reach common ground. If not, we will have votes on whether one is for it or against it, with additions or subtractions, what it can do and over what jurisdiction it has authority.

These are the principles. There is not much disagreement with what we are trying to achieve but there will be on how best to do it in certain areas. There may be disagreements on how to actually accomplish these goals.

I said before that we agreed to move forward on this bill and that I will allow each Member in this Chamber to offer his or her suggestions, air their concerns, vote up or down on ideas.

What I would like to see occur during this debate is not only are we taking on a large issue, but this institution has been damaged over the last number of years. It amounts to this: Senator JON KYL and I engaged in a colloquy the other day—not a planned one—about the issue of trust, which is what people are concerned about. We need to restore that trust if we can. It is incumbent we try to understand each other's motives, not question them, and then deal effectively with ideas as they come up.

My hope is not only will we end up with a good bill at the end of all this, but we can also end up repairing some of the tensions and stress that exists in this legislative body. When I said I want Members to be able to offer their amendments, to debate those amendments, and have votes on those amendments, I mean it—I know my colleague from Alabama shares that view as well—and that people with limited time—obviously, we do not want filibustering occurring—ought to have it to express those ideas and then vote on the ideas.

I mentioned last night the amendment proposed by Senator BOXER. I have discussed that amendment already. Others will have amendments to come next week as well.

I cannot promise that the final product will be a bill that all 100 Senators will feel they can support. I understand that. But my goal is to get the best, most effective legislation we can. My belief is we can make that happen by acting like Senators, listening to each other, ensuring our debate is as civil as it is passionate, as factual as it is fierce.

To paraphrase our President: We did not ask for the job of saving our financial system from its inefficiencies and excesses, but that is our job today. That is what we have been asked to do. I have the greatest confidence in my colleagues that we can get that job done. I look forward, again, to working with my colleague and friend, Senator SHELBY, moving forward as well with the leadership and others to achieve the desired results with this bill.

I yield the floor to my colleague and friend from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, before proceeding to my remarks on the bill, I want to thank Senator MCCONNELL, the Republican leader, for his leadership, and also the members of the Banking Committee on both sides of the aisle for their hard work and dedication which has brought us this far.

Also, I want to thank my colleague and the committee's chairman, my friend, Senator CHRIS DODD. Over the years, as he has said, we have worked together on a number of bills and quite often found a way to compromise, to work forward on some very difficult and complex issues. Unfortunately, thus far, compromise has alluded us on this particular piece of legislation, at least some of it.

Throughout our discussions, we shared roughly, I believe, the same goals. Where we have differed, however, is how to achieve those goals. My goal during consideration of this legislation here will be to reshape this bill so that it actually ends bailouts, protects consumers without jeopardizing our small community banks, and brings transparency, as Senator DODD mentioned, to the world of derivatives, without sacrificing economic growth and job creation, which we desperately need in this country.

I, along with many of my colleagues on both sides of the aisle—Democrats and Republicans—will seek to remove dozens of provisions that unnecessarily expand the reach of the Federal Government into the private affairs of Americans and potentially endanger our civil liberties. As always, I will try to focus on policy and not politics.

Unfortunately, over the last several days, debate has become tainted by accusations and misrepresentations. This is nothing new here. The process has already become overly political with allegations that Republicans are blindly following the advice of a pollster's political memo.

I wish to say for the record here that I voted against the Chrysler bailout in 1979, I believe it was, when this particular pollster they are talking about was still in high school. So I have a long record of fighting against bailouts and trying to protect the taxpayer.

Also, I advanced the toughest piece of legislation that would have reined in Fannie Mae and Freddie Mac years ago. But that was opposed unanimously by the Democrats in the Banking Committee.

I was the only Senator criticizing the SEC's lack of supervision of the Nation's largest investment banks while some of my Democratic colleagues, including then-Senator Obama, were endorsing it.

I also opposed the imposition of the Basel II capital accords that would have left our banks in far worse shape than they were when the crisis hit.

I was questioning regulators about the growing housing bubble and the stability of our housing market years before the collapse.

As chairman of the Banking Committee before Senator DODD, I authored and passed, with the help of the Senator, the only attempt to address the lack of competition in the credit rating industry, once again over a lot of opposition.

Finally, when Congress repealed the restrictions put in place by Glass-Steagall, I was the only Republican on the Banking Committee to vote no. So if any of my colleagues wish to discuss my motivation and my record, I am standing here on the floor right now.

As I have stated, there are a number of changes I believe need to be made to this bill before I can consider supporting it. I think we should begin by listening to the people who will be negatively affected by this bill if it were to become law.

If a small business owner from my hometown in Tuscaloosa, AL, tells me that he fears an out-of-control consumer regulator, I listen. If an orthodontist from Mobile, AL, fears regulatory burdens because she offers installment payments, I listen. If the makers of Mars candy bars fear massive cost increases from this legislation that will threaten American jobs and prices, I listen.

There are others we should be listening to as well. For example, large financial firms such as Goldman Sachs and Citigroup are in favor of this bill. Why is that? The answer is, as now written, they know that the bill will bring them and Wall Street firms like them under the Federal safety net where they will get preferential treatment, just as Goldman Sachs got in the AIG bailout.

Yes, the bill, as written, will guarantee that Goldman Sachs could again be paid 100 cents on the dollar if its bets go bad. That is a huge benefit for Wall Street firms at the expense of others—mainly the taxpayers.

The resolution authority established by this bill at the moment will ensure that the politically influential investors in these firms, such as foreign governments and sovereign wealth funds, will get special taxpayer bailouts not available to creditors of small financial companies. This will give these firms a permanent funding advantage over smaller competitors on Main Street.

Make no mistake, this bill will help the big banks get bigger, as it is written today, and further tilt the competitive playing field against small and less politically connected firms.

The legislation that we are about to consider will help the likes of Goldman Sachs but harm the American people. It will lead to job losses, lost opportunities for businesses to productively invest in the future, and it will ensure future bailouts, which Senator DODD and I both want to prevent.

Chairman DODD has assured me that he will address a number of concerns I have expressed with respect to bailouts. We have talked about this at length. I appreciate his assurances and take him at his word, but I am con-

cerned that there appear to be no substantive changes in the relevant sections of the bill that would reflect such assurances yet. Therefore, at the conclusion of my remarks, and picking up on what we talked about earlier, I wish to hear how the chairman intends to address the following: the removal of the \$50 million bailout fund, which some people call the honey pot; not allowing the government to pay creditors and shareholders of a failed firm more than they would be entitled to in bankruptcy; not allowing the FDIC to prop up failing firms with government and debt guarantees—meaning the taxpayer; not allowing the Federal Reserve to lend broadly on bad collateral; holding the FDIC accountable if it fails to properly conduct resolutions or uses the resolution authority to provide bailouts; and not allowing the government to deem any nonbank financial company as systemically important and worthy of taxpayer funds at the Fed's discount window.

As many of my colleagues are beginning to realize, it doesn't matter what we say. What matters is what is in the bill's language. And the language in this bill right now would allow for bailouts. I urge my colleagues to read the language carefully.

I have been assured that the bailout provisions will be addressed. However, they have not been addressed yet in the chairman's substitute language. We need to see language from the majority that clearly addresses the issues I have set forth. My hope is that by Tuesday this can be resolved quickly, with both of us offering a joint amendment.

Nevertheless, we are still left with a bill this afternoon that will create massive and intrusive new government bureaucracies, damage job creation, reduce private investment in productive projects, make risk management more difficult, and threaten our economy.

The bill before us now establishes overarching bureaucracies without any meaningful protections for our financial privacy rights. Also, the bureaucracies have been designed to address many issues that have little or no bearing on the recent crisis or any financial crisis. It is a power grab that can reach into virtually every aspect of our economy, and it needs to be restrained.

I wonder how any crisis will be prevented through data collection from banks about deposit accounts of their customers to identify community development opportunities as found in section 1071 of this bill.

Small businesses across this country fear the massive and potentially very intrusive new bureaucracy created under the rubric of consumer protection. And they have every right to be afraid. The massive new government bureaucracy called for in this bill has authorities and powers to call you forward and ask you, under oath, about your personal financial affairs. The fact so many are looking the other way on this serious threat to our civil liberties is troubling. But as this debate

goes on, I think America is going to start focusing on the deep aspects of this bill.

The architects of this massive new bureaucracy have long argued for a consumer bureau with the right culture, they call it. Whether that culture focuses on consumer protection and a safe and sound banking system or it becomes a way for community organizers and groups such as ACORN to grab Federal resources is left wide open here.

This massive new bureaucracy will be funded by over \$600 million taken directly from the Federal Reserve, outside of the congressional oversight or appropriations process. Tapping the central bank to pay for political initiatives is a very disturbing and dangerous precedent. They did that in Argentina to the utter dismay of the global community and to Argentina itself. It shows a complete lack of understanding of the importance of an independent central bank. For us to follow Argentina's lead and tap the Fed for new government programs is not only shortsighted but signals to the rest of the world the failure of this country to act in a fiscally responsible manner.

In addition to the new Fed consumer protection bureaucracy, this bill envisions a massive new potentially \$½ billion per year Federal bureaucracy called the Office of Financial Research, designed to collect granular financial data and to construct complex financial models. Did you hear that? This new bureaucracy is given unprecedented authority, including abilities to obtain virtually any type of data it wants from financial companies, to the level of detail of what you buy on your credit card.

This new bureaucracy is also designed to gather data, process it, and then is required to make it available to Wall Street firms so they can cut their costs. So who is for Wall Street now?

This bill also threatens our economy, as Senator DODD mentioned, by its treatment of derivatives. Greater transparency in all derivative markets is a good thing. But this bill, at this juncture, under the guise of promoting transparency, I believe, threatens Main Street companies and their customers for no good reason. The end-user exemptions put Main Street companies through almost endless and unworkable hoops that will ensure higher costs, lower growth, fewer jobs, and diminished economic opportunity.

In addition, by seeking to concentrate all manner of risky products into clearinghouses, the bill threatens to concentrate risk to the point of becoming systemically large, which, as we all know, leads to government or taxpayer bailouts. This bill could actually increase risk in our financial system, as it is written, and decrease economic output at a time when we need it the most.

Finally, while concentrating risks in America, this bill will shift derivative

trades offshore to places where we have no oversight or regulatory abilities to act.

Proponents of this bill also argue that regulatory gaps are being closed and that the bill somehow simplifies and rationalizes the regulatory framework. Yet the Kansas City Fed President has said:

This bill actually increases the complexity of the regulatory structure . . . as well as creating unnecessary costs.

As is often the case with this bill, claims about what it does do not match the language itself. They claim it is regulatory simplicity; the language means that there will be increased complexity.

I have highlighted here this afternoon some of the major problems in this bill. It will not end taxpayer-funded bailouts as it is written; it provides for a drastic expansion and overreach of government into the economy and every aspect of our personal financial lives; it also raises the cost of risk management and threatens the abilities of companies to manage risk using derivatives while potentially accumulating risk to systemic proportions; and it makes an already complex regulatory maze even more complex.

I welcome the opportunity to debate the bill before us and to offer amendments and work with Senator DODD, the chairman, to improve the deficiencies and strengthen this bill's shortcomings. I hope we are going to be able to do this in a spirit of cooperation in the days ahead.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I say to my colleagues, other than what you heard from my good friend from Alabama, he likes the bill. So we will have some work to do.

Let me again assure him and my colleagues here that we have had very productive talks, my friend from Alabama and I, particularly in the too-big-to-fail area. My two colleagues, MARK WARNER and BOB CORKER, did a tremendous amount of work in our committee over many weeks as we divided the labor to try to address these issues as thoroughly and as comprehensively as possible. I think we have done that work, but I respect the fact that others may have additional ideas to make this work even better. I know he raised the issue here, and we are going to try to work over this weekend to try to put together the legal language, the language that has to be drafted here, to reflect some of these ideas we can incorporate as part of this bill. My colleague and friend from Alabama has my word on that. We will work on that to do that. Again, I thank him. We have worked well together over these last 37 months.

I make this offer to my colleagues too. I just had a brief conversation with Senator CHAMBLISS. I say this on my own behalf, but I hope Senator SHELBY might agree with me. If Members have amendments, it would help,

even in the next day or so, if you could let us know what those amendments are. Even though we may not get to them for a while, we can start to work with our colleagues on their ideas. We may be able to accept some.

I see my colleague from Arkansas here, the chairman of the Agriculture Committee. I don't know whether she shares that view, but it would be helpful. If people have ideas, the earlier we know about them, the better we will be able to respond to them or modify them in some way so they are acceptable. I hope Senators will take advantage of that offer; that the chair of the Agriculture Committee, myself, and I presume Senator CHAMBLISS would share that view as well. Let's see these amendments early on so we can try to be helpful to our colleagues early on, if at all possible.

I commend my colleague as chairperson of the Agriculture Committee. She has taken over that job over the last number of months and done a great job at it. I look forward to working with her, hopefully, in the next week or two on this bill as well.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I thank Chairman DODD for his hard work. I absolutely agree that getting Members to bring their amendments forward is going to be critical in terms of working with them and their ideas to see if we can move forward. We have a historic opportunity to do something on behalf of our country, and I hope we all work together to make that happen.

I ask unanimous consent that Senator BOXER be the next Democratic speaker after Senator WARNER in the queue.

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

Mrs. LINCOLN. Mr. President, I rise today to speak in support of the Dodd-Lincoln substitute amendment. This substitute amendment represents a critical step forward in restoring the soundness of our financial system. This bill will ensure that our markets work for Main Street and not just for Wall Street.

We have come to a critical juncture, and our Nation faces great challenges. But within those challenges we find great opportunities.

Last fall, I had the honor and solemn responsibility of taking over the gavel of the Committee on Agriculture, Nutrition, and Forestry. As the daughter of a very pragmatic, seven-generation Arkansas family, I find myself, in the Senate Committee on Agriculture's 184 years, the first Arkansan to ever serve as chairman of that committee. I am proud of the work that has gone into the product we bring, along with the banking bill, to this process.

Our committee was tasked with putting an end to the reckless behavior that put our financial system in jeopardy, specifically bringing regulation to the over-the-counter derivatives market. Reforming this market is at

the heart of financial regulatory reform. Within a decade, this market exploded to \$600 trillion in notional value and is today completely unregulated.

Last week, the Senate Agriculture Committee took a critical step toward bringing transparency and accountability to this market, a critical step toward passing the Wall Street Transparency and Accountability Act with bipartisan support.

The major provisions of this bill are included in this substitute amendment I have offered today with Chairman DODD. I appreciate the work of my distinguished colleague, Chairman DODD, and the Senate Banking Committee staff, along with the amazing staff from the Agriculture Committee, to merge our two bills.

I also appreciate the leadership of Majority Leader REID, whose commitment to producing strong financial regulatory reform guided us through this process.

This substitute legislation takes the best of both committees' products and represents the strongest reform legislation to date. I thank Chairman DODD for his strong leadership on this combined effort. He is a longtime leader in this body, and I very much appreciate not only all of his leadership but certainly our strong relationship. I am grateful for all of his hard work.

I would also like to thank the President and his Treasury Department for their leadership on this issue. I also greatly appreciate the strong support from Chairman Gensler at the Commodity Futures Trading Commission. Because of their commitment, the administration has been instrumental in bringing us to this point.

I am also very fortunate to have a strong partner in my good friend and ranking member, SAXBY CHAMBLISS. His thoughtfulness and the hard work of his unbelievable staff is reflected in many of the provisions we will begin debating on the Senate floor today. While we have had some policy differences, I know without a doubt that we share the goal of bringing thoughtful reform to these markets.

This legislation is historic. It is landmark reform. It will keep banks in the business of banking. It will prevent future bailouts and, through the work done by Chairman DODD, put an end to too big to fail. It will lower systemic risk—systemic risk through our clearing mechanisms and our exchange trading and real-time price transparency. It will close loopholes and make sure the regulators have the full authority to go after those entities that would evade or abuse the law. It protects jobs on Main Street by giving true commercial end users the ability to hedge and manage their risks. It protects municipalities, along with pensions and retirees and any governmental agency, from the gouging or the gross profiteering that has occurred in the past. Most importantly, it will bring 100 percent transparency to what is currently a completely unregulated and dark marketplace.

This bill is true reform. This is strong reform. But we need to remember that this is not regulation for regulation sake. We have an important but narrowly tailored end user exemption and appropriate restraint on the regulators where necessary. We understand we are competing in a global financial world. This is a robust package that balances the need for strong, meaningful reform and recognizes the importance of these markets.

Americans are demanding transparency and accountability from their government and from their financial system. America's consumers and businesses deserve strong reform that will ensure that the U.S. financial oversight system promotes and fosters the most honest, open, and reliable financial markets in the world. That ensures that not only does the United States remain the world financial leader but, most importantly, that we lead by example.

I look forward to working with Chairman DODD and my colleagues to consider amendments over the next several days and to improving the substitute bill where necessary. Most importantly, though, I am looking forward to providing the American people with a sound economy and a financial regulatory system that they truly deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I will say more about it in my conclusion remarks, but first of all, Senators DODD and SHELBY, thanks for continuing your dialog with each other, and thanks for coming forth with the type of agreement that has allowed us to get this extremely important agreement to the floor.

With the financial collapse of 2008, there are a number of issues that simply have to be addressed, and this is the appropriate forum now for all of those issues to come forward and have debate on both sides of the aisle; to hopefully at the end of the day come up with the right kind of product that is going to make sure situations like 2008 never occur again.

To my chairman and my partner on the Committee on Agriculture, she is my dear friend, and we have worked very closely together on so many issues, including this one. When we have our differences, we are able to disagree in a very professional way. I am very appreciative of her as well as of her friendship.

We all know that appropriate regulation of derivatives and specifically the swaps market is a critical component of this legislation, and the Agriculture Committee is responsible for the oversight of the Commodity Futures Trading Commission, which will become one of the key regulators of the swaps market. As the ranking member on the Agriculture Committee, I have the responsibility to ensure that we get this right.

The Agriculture Committee has a history of not falling subject to partisan influence. We have a long tradition of checking our partisan politics at the door in an effort to reach consensus so that both Republicans and Democrats can then support our products on the floor. For instance, the Agriculture Committee facilitated a bipartisan deal to close the Enron loophole back in 2008. Then-chairman Senator HARKIN and I worked across party lines with Senators SNOWE, FEINSTEIN, LEVIN, and CANTWELL to ensure that electronic trading facilities offering contracts that perform a significant price discovery function are properly regulated in a transparent way. Earlier this week, the CFTC used this new authority to subject seven natural gas contracts to increased oversight. That is an example of how laws written with bipartisan agreements yield real results.

Derivatives legislation should have been handled this way too. It should have come out of the Agriculture Committee as a bipartisan product. My staff and Chairman LINCOLN's staff spent 5 months crafting a derivatives bill which should have been reported from the committee with support from both sides.

Unfortunately, things fell apart just as we were about to circulate an agreed-upon discussion draft. This discussion draft, which would have required clearing of swaps by swaps dealers and others who contribute to systemic risk—it would have provided the FTC and the CFTC with the authority to establish capital markets and margin requirements. It would have allowed the CFTC to impose aggregate limits, and, most importantly, it would have provided the much needed transparency that has been absent from the swaps market. This would have represented a 180-degree shift from current law that was in place in 2008. Transparency is the key here. Under our agreed-upon discussion draft, 100 percent of all trades in the swaps and derivatives market would have been out in the open and available to regulators to review in real time.

Unfortunately, this language is not part of the underlying bill. Instead, we are faced with a derivatives product crafted without input from Republicans, a derivatives product that reflects an agreement between both Democratic committee chairmen and the administration. Republicans were not even invited into the room to provide input.

The product they have developed will have many unfortunate consequences for Main Street businesses that had nothing to do with creating this financial meltdown. I fear what I believe to be unintended consequences resulting from applying complicated regulations too broadly will subject our American businesses to more risk, not less.

For example, this legislation would force the Farm Credit System institutions to run their interest rate swaps

through a clearinghouse, which will result in additional costs in the form of higher interest rates to their customers, without doing anything to lessen systemic risk. Let me be clear as to whom this will ultimately affect—our farmers and ranchers, our electric cooperatives, and our ethanol facilities that seek financing from these institutions. Institutions such as CoBank will be forced to clear their swaps and execute them on a trading facility, which will impose significant new costs and result in higher interest rates for their customers or, worse, discourage them from managing their risk, which will again result in higher costs for their borrowers.

Because this legislation broadly applies regulation, treating all financial institutions exactly the same. Cobank and Goldman Sachs are not the same and should not be regulated in the same manner. Cobank should have the option to clear their swaps and not be mandated to do so.

This legislation will also prevent John Deere Credit from hedging its interest rate risk except through a clearinghouse. Again, this will result in less attractive credit arrangements for farmers who need financing to buy tractors and combines.

The same can be said for consumers who would like favorable financing arrangements with Ford Motor Credit to buy a car. They will not be allowed the best deal because Ford Motor Credit is now going to be forced to take on additional cost when hedging their interest rate risk. Can anyone tell me why we are treating John Deere and Ford Motor Credit exactly the same as Goldman Sachs?

Also, entities such as Koch Industries that is hedging their risk and also engaged in developing products for their customers' hedging needs should not inadvertently be captured in a new regulatory category designed to apply to big financial dealers. But that is exactly what this legislation does.

Koch's and Goldman Sachs' swaps businesses would essentially be regulated in the same way. Treating these entities like dealers may force them to stop offering those products to their customers, in which case their customers will have no other option but to seek products from the large dealers such as Goldman Sachs and other Wall Street bankers.

Today I heard the stock price of Goldman Sachs is up, and this explains it. They will get increased opportunities to make more money under this legislation. Why do we want to essentially lessen competition and drive all of the swaps business to those that are the most systemically risky or, even worse, drive them offshore where we cannot regulate them?

Banks such as Goldman Sachs may even be forced out of the swaps business if this legislation becomes law, which begs the question: Who will then be left to offer these risk management tools to our constituents' businesses?

Businesses rely on swaps as a very legitimate option to help them alleviate risk inherent to their business. But if no one is left to sell them this protection, they will be forced to hold the risk on their books. Why on Earth would Congress advance legislation that would actually prevent the businesses in each of our States from properly managing their risk, especially in these difficult times?

The American public wants to know why we cannot target these new regulations so Wall Street is regulated properly without punishing the businesses they rely on every day. I would like to know the same thing. Unfortunately, I think I already know the answer: It has absolutely nothing to do with regulating Wall Street.

When the Obama administration realized the Committee on Agriculture was on the verge of producing a derivatives regulation package that would have appealed to both Republicans and Democrats, they scrambled to kill the deal. You see, to the extent that any aspect of the financial regulatory reform package has Republican support, they can no longer play politics with this issue.

If we produce a bill that has the support of several Republicans, then they can no longer blame us for holding up this process, which would cause the administration to lose the message they are pushing, in hopes that voters will forget about health care. Their message is simple: They want to be able to tell the public that Republicans are opposed to regulating Wall Street.

Well, that is disingenuous at best and totally false at worst. Republicans are just as anxious as Democrats to address what went wrong on Wall Street and, frankly, it is long overdue. Why has the administration waited almost 18 months to push financial regulatory reform? Why are they trying to cut Republicans out of the process? Is it that they wanted an issue that will drag on into the election season, not a solution that will truly protect the consumers on Main Street?

I wish we were here today debating a derivatives product that had input from Senators on both sides of the aisle and perhaps a little less input from the administration. The American people expect the administration to implement the laws that Congress passes, but they elected us to write those laws.

I feel certain that we could have done a much better job had we been allowed to work in a more bipartisan way. Unfortunately, I have to encourage my colleagues to oppose the derivatives portion of this bill because I think it will have undesirable consequences for Main Street businesses and consumers who are already struggling in this weakened economy.

We will have amendments to correct the deficiencies in this bill, and I hope we will receive bipartisan support for those amendments because they truly will reflect commonsense solutions to the complex derivatives issue.

Let me close by saying that I know Senator DODD, Senator LINCOLN, Senator SHELBY, all of us, wanted, at the end of the day, to develop a bipartisan bill. I hope we can still do that. I see my friend, Senator WARNER, is on the Senate floor. He and I have had some conversations about trying to meld some of our ideas. I know he has worked very closely with my dear friend, Senator CORKER, from this side of the aisle.

Now that we have this bill on the Senate floor, I hope we can get by the rhetoric; that we can all say our piece and that we can roll up our sleeves and do what the American people want to see us do, which is to work together for their best interests. They are the ones who are going to suffer for what comes out of here or they will be the ones to benefit from what comes out of the Senate.

Senator DODD is a dear friend. We have had many conversations about this bill. I know what is in his heart. I know he wants to get this done in the right way. Likewise with my dear friend, Senator LINCOLN. So as we move ahead now, I am very hopeful we can settle down to the real business the Senate is famous for; that is, having real, hard-core debate on issues because these are extremely tough.

There has not been a more complex issue that we have had to deal with in my now going on 8 years in this body. But the minds are very capable of resolving these issues. We can do so with good ideas from both sides of the aisle. I am very hopeful at the end of the day, we will come out with a product the American people can look back at and say: Wow. That is the way the Senate is supposed to work. And the people we sent to do the peoples' business have, in fact, put together a good product that is going to benefit America; it is going to benefit American business and, most importantly, it will benefit Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, before Senator CHAMBLISS leaves the floor, before we hear from my colleague from Virginia, let me thank both of our colleagues: my colleague from Arkansas who spoke, but also my good friend from Georgia. I thank him immensely for his comments. We have worked together, not as often, and we do not sit on committees together. But we have come to know each other and respect each other immensely. I know he is going to do exactly what we are talking about. This is an opportunity for us not only to get a bill right, but to get this institution right, in a way. It ought to be the way we can conduct ourselves.

I have always said, there is nothing wrong with partisanship. In fact, the country was not built on anything but partisanship. It was the contest of ideas. But the ability to have a civil debate in the context of some partisan

ideas, with the ultimate goal of resolving those issues so that we reach a common solution, is the purpose for our existence in all this.

I have great faith in our ability to do that. I know we will get closer to that because there is a guy named SAXBY CHAMBLISS. So I thank him.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. I appreciate the opportunity to follow the chair and the ranking member of the Banking Committee and the chair and the ranking member of the Agriculture Committee on this critically important debate.

I commend their work, the great amount of work that has been done, actually, in a bipartisan fashion already on this important piece of legislation. There are differences. But an awful lot of work has gone into getting this product that now can be fully aired on the floor of the Senate.

I want to pay particular compliments to my dear friend, someone I had the opportunity to actually work for close to 30 years ago, the chairman of the Banking Committee, who, while I am a new guy in the Senate, seems to me, on this bill, has kind of done it the old-fashioned way. He has had an open door to any Member of both sides of the aisle.

As this issue got more and more complex, he asked various members of the committee to roll up their sleeves and take on portions. Senator CORKER and I—and nobody has been a better partner than BOB CORKER for me during this process—took on a major portion of the bill. Then, as we kind of got to the Senate floor, time and again—and I will come back to certain specific examples—he has said: How can we find that common ground that seems to be so often missing from this debate?

I also commend the ranking member, Senator SHELBY. Nobody has been kinder and no one has spent more time with me kind of helping me learn the ropes of this institution than Senator SHELBY. But I also have to say that as we get into the substance, some of the comments that have been made from my colleagues, particularly on the other side, do not resemble the bill we are actually starting debate on, particularly some of the portions in which I personally have been very involved.

I want to try to address some of those briefly. In some of the comments we have heard from my colleagues, they have talked about that we did not put in too big to fail. If there was one overriding challenge that we were all tasked with—I believe my colleagues from the other side of the aisle would completely concur with this—it was ending too big to fail and never again exposing taxpayers to the financial mistakes made by large systemically important institutions, made by Wall Street.

What I have not heard from my colleagues—and I guess this will be assent—is that a lot of the things that we have put in this legislation, bipartisan,



take us down that path. We have created a systemic risk council so for the first time the regulators can actually get above their silo-like focus, so they can look ahead of the crisis and create early trip wires to make sure we do not get to the kind of catastrophic place we ended up in September of 2008.

This systemic risk council will make sure that these systemically important firms—and there will be systemically important firms no matter what we do—but that the price of getting so large will actually be borne by those institutions and not by the taxpayers.

So what are those speed bumps, as I have called them? Increased capital requirements, making sure there is a better management of leverage, making sure they actually have in place risk management plans.

Then we have created two brandnew tools that regulators have never had before. In fact, the price of getting so large, one is a whole new—and I apologize to my colleagues and those who are viewing because some of this is in the weeds, but the weeds are where billions of dollars are made or lost.

But we are creating a whole new area of capital that is called contingent debt, that any of these firms will have to put in place. That debt will convert to equity and dilute shareholders and dilute management if any firm even gets close to getting into trouble.

It will be an immediate check by current management on not getting too far over the edge, because we believe the bankruptcy process should be the way that firms unwind themselves; if they get into trouble, go into bankruptcy. They may or may not come out at the other end, but you have to have a plan in place.

We have spent an awful lot of time looking back, back to the Bear Stearns crisis, the Lehman crisis, AIG. All of the stories show there was no plan in place for how to unwind these firms.

So we have given this risk council the ability to require these systemically important firms to basically put forward a plan on how they will unwind themselves in bankruptcy at no risk to taxpayers. If the regulators do not approve, they have the ultimate sanction of actually being able to break up these firms.

Now, time and again, in this legislation—and I hear some of my colleagues saying: We are going to always default to resolution. If this works, resolution should rarely and hopefully never, ever have to be called upon. But who would have ever predicted that we would have ever gotten to the point of complete financial meltdown of September 2008? So we cannot go responsibly forward without also having—and we heard this from people across the spectrum—without having some form of a resolution plan in place.

There has been a great deal of comment made about the notion that the chairman's bill says we ought to go ahead and in effect ask these financially important firms to pony up a lit-

tle bit of the resources so that if one of them gets into trouble and has to be unwound, there is some capital available to, in effect, keep the firm operating so the market doesn't lose faith in that institution and then create a financial run. We saw institutions that seemed to be very well capitalized but, because the market lost faith in them, their capital disappeared virtually overnight. You have to make sure there is an assurance that the firm can continue to operate and be out of business. Senator CORKER and I looked at different options, but we thought perhaps the best way is to have some resources available, whether the number is \$50 billion, as the chairman proposed, or a lesser amount, subject to valid debate, and perhaps the industry ought to be paying for that.

I have heard others criticize that, but what I have not heard from my colleagues on the other side is, if the industry is not going to pay to keep these firms alive through the process of being put out of business—again, resolution means your firm is going out of business, your management is gone, your shareholders are gone, your unsecured creditors are gone. No rational management team would ever want this to happen. They would always prefer bankruptcy. That is how we have tilted this process. But if you are going to do that, you need to put them out in an orderly way. You don't want to have what happened when there was no plan to unwind Lehman. What I would ask is, if they don't like the prefund from industry—and some even in the Treasury don't like it—then who will pay and how do we make sure taxpayers are not exposed?

My two goals are—and I know Senator CORKER agrees—that taxpayers should not be exposed, and you have to have some liquidity operating so you can keep the firm operating so you can put it out of business.

I have also heard critiques that somehow in this process there would be some preference for one creditor over another. Nothing could be further from the truth in terms of what the Dodd bill proposes. It is as if somehow a whole new process was created out of whole cloth where somehow the firm that was going to be put out of business was going to be choosing which creditor was going to be paid or not paid. Nothing could be further from the truth. The model I believe the chairman's bill adopted was basically the model the FDIC uses as it puts banks out of business through the normal resolution process.

The fact is, the FDIC is charged, as this resolution authority is charged, to say you have to maximize value as you put the firm out of business. So, yes, you may have to pay the electric bill to keep the lights on, but there will be a recoupment process at the end so that creditors balance out. It is not some new process. This has been used for decades relatively effectively.

I also heard comments made about some new bureaucracy in the Office of

Financial Resolution. Nothing could be further from the truth. One thing we heard time and again as institutions came in, as regulators came in, was that too often they didn't have current real-time data. So when AIG was going down, nobody knew the extent of the interconnectedness. When Lehman went down, nobody understood the state of their transactions. The Office of Financial Resolution that is proposed is to make sure that the regulators—experts from all across the field, not Wall Street—have real-time data on the state of interconnectedness of all the transactions that take place on a daily basis. To me this could be one of the most effective tools in this whole piece of legislation, making sure we have an immediate snapshot of the market.

In the consumer area, I think there is, again, broad agreement that we need to improve consumer protections; that we ought to make sure financial products are regulated by the nature of the product, not by the charter of the organization that is issuing the product.

There are still parts we need to work on. We need to make sure, particularly for community-based banks, that a community-based bank, a smaller institution that didn't create the crisis in the first place, doesn't have one regulator come in on a Monday on a consumer issue and another come in on a Wednesday on safety and soundness, and get conflicting advice. How we get enforcement right is an issue we have to work through. But again, common ground can be found on this issue.

I commend the Agriculture chair and Senator CHAMBLISS on the issue on derivatives. There has been a lot of discussion. There is an agreement that derivatives, while they have been oftentimes appropriately vilified as some of the tools that created the crisis, are also a useful way that legitimate businesses hedge risk. At the same time, as we try to put in place new rules around derivatives, we don't want to push the whole derivatives market offshore. While I commend the end-use exemption that was created and the goal of trying to get everything cleared and on exchanges, my hope is we can put some penalties in place. Some of the penalties the Agriculture Committee has put in place perhaps could be triggered if the banks do not end up meeting what they basically said, not overusing the end-use exemption or not getting all their products cleared or on the exchanges. My concern is that no matter how good the end-use exemption we write, there will always be more resources on Wall Street to find ways around even the best written legislation on something where as much money was put in place. So putting in place trip wires that might then cause a Draconian response would help self-police the industry.

One more example of the approach Chairman DODD has taken on this bill. In my background, I spent 20 years in

the finance industry before I was Governor. I was in the early stage capital formation business, something that is very important in the tech community. A lot of firms that are thrown around on this floor and elsewhere I have been a client of, worked with, worked against. One of the areas I had great concerns about in an earlier draft was anything that might stop or slow the ability for startup companies to access capital. There were some provisions in the bill that looked at the definition of a qualified investor that could hurt the creation of angel investors which are so critical to creating new jobs. There were perhaps provisions put in around the SEC in terms of new deals that might have to be vetted for a long period.

If you are a startup company, you don't have 120 days before you can raise your dollars to kind of get to the next step to stay alive. I cite these two examples because instead of simply saying no to the chairman, I said: Yes, you raise good points. Others have raised these points. They are changing the bill. I think that spirit is what the chairman is going to bring to the debate.

In the 20 years of being in the finance business or around the finance business, I came to this body thinking I might know a little something about this subject. There was probably a month in which I realized that whatever I knew was incremental and that the last year and a half I have had to go back and retest all of my assumptions. It has been an enormously challenging and exciting experience. I come away from this year and a half—again, particularly working with Senator CORKER, where we had everybody from across the political spectrum talk to us to get us up to speed on these issues—with a couple conclusions.

One, there is no Democratic or Republican solution to financial regulatory reform. If there is ever an area that should not be broken down on partisanship, it is this issue. Second, what the market craves most is predictability. Sometimes it is overstated: if you do this, oh, my gosh, it will be the death knell of American capitalism—there has to be balance. But oftentimes those statements are overstated. At the end of the day, what the market wants is a good, commonsense bill that will set the tone, not just for the next year or two but for the next 20 to 30 years.

Finally, because of the good work of Chairman DODD, Senator SHELBY, and many others, common ground is attainable. I look forward to spending as much time as needed and appreciate in particular those on the Republican side who agreed to bring this bill to the floor and no longer are there going to be political shenanigans; let's air these issues back and forth.

There is a lot more to say about some of the critiques that are made of the bill. I look forward to that discussion and look forward to working to-

ward that common ground so we end up with 21st century financial rules of the road.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, before we hear from my colleague from California, I thank Senator WARNER of Virginia. He is a relatively new Member of this body and a new member of the committee, but I can't even begin to aptly characterize his contribution to this product. Since day one, he has been at every meeting, been involved in almost every conversation about this bill, particularly the focus that he and Senator BOB CORKER agreed to take on in working out title I and title II of the bill dealing with resolution authority and too big to fail. His background, his experience, his knowledge made a wonderful contribution to this product. His interest in other matters is valued as well, because he brings two decades of living in a world in which these matters were something he absolutely grappled with. We have a long journey in front of us in the coming weeks to get through all of this, but his continuing involvement in this Chamber on this subject matter will be invaluable to all of us as we go forward. I thank him for that.

Let me thank my colleague from California. She also has a background on this subject matter. She has often talked about it. I thank her for what will be our first amendment on this bill, something I think brings all of us together. I thank her for her energy and interest in the subject.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 3737

Mrs. BOXER. Mr. President, I thank Senator DODD for all his work on so many issues. Just the way things worked out, he has been so pivotal in health care reform and now in Wall Street reform. This is an era of reform. My friend should be very proud that he happens to be here at this time, because we can't go back to the days we left. As a reminder, I will show you some of the headlines. It is worth a minute of looking at these headlines. This is taken from 2007 and 2008, some of the headlines we had to face in those times: "U.S. unemployment rate hits 10.2 percent, highest in 26 years." How about this one: "Nightmare on Wall St." "The bailout to end all bailouts." "Wall Street's latest downfall: Madoff charged with fraud." "Credit crunch continues as lending rates climb." "Jobs, wages nowhere near rock bottom yet." "Where do we go from here?" "The Nasdaq in biggest fall since the dot.com crash." "Dow dives 778 points." "U.S. loses 533,000 jobs in biggest drop since 1974." We can see the look on this man's face. He is obviously standing in the middle of the New York Stock Exchange. That explains how everybody felt as our constituents lost their wealth. They lost their wealth and with it their confidence in America.

I want to continue with one more chart because all of us want so much to put this behind us. That is what we will do with this bill. But we have to remember. "Economy in crisis, what now?" "U.S. pension insurer lost billions in market." "Housing prices take biggest dive since 1991." "Full of doubts, U.S. shoppers cut spending." "Wall Street employees set to get 145 billion 2009," the bonuses during this time. "How low can they go?" "Home prices drop 42%." "Carnage continues: 524,000 jobs lost in December." And from the San Jose Mercury News: "Foreclosure Wave, San Jose Fights to Protect Neighborhoods."

What we are doing here is so important. I am so proud of the work Senator DODD did in his committee that has brought us to this point. I am grateful that our Republican friends let this bill move forward. We will have our debates. That is fine. But we can't afford to go back to those old days. Those old days could happen unless we act, as the President has stated.

I want to take the time to thank Senator DODD in particular for working with us, as well as to thank the administration for working with us, to come up with an amendment which will synthesize exactly what the bill does.

The purpose of this amendment—which is pending at the desk, which I am hopeful we will vote on Tuesday—says in its purpose: "To prohibit taxpayers from ever having to bail out the financial sector."

When I heard my colleagues on the other side say Senator DODD's bill would ensure taxpayer bailouts, I knew it was false, and I went to Senator DODD and colleagues on the committee and said I did not understand why these comments were coming from the other side, as if saying this glass of water on my desk is a cup of coffee. No. This glass of water is a glass of water. It is not coffee. And if you say seven, eight, and nine times that it is coffee, somebody might believe it. That is how I view the comments from the other side that this is guaranteeing bailouts, when in fact it is not.

So I said to Chairman DODD: I have an idea that we should put together a very simple amendment to the bill that basically says what we know is true:

All financial companies put into receivership under this title shall be liquidated.

No company is ever going to be kept afloat. No taxpayer funds should ever be used to prevent the liquidation of any financial company under this title, that all funds expended will be repaid to the taxpayers by the financial sector through assessments or the sale of the assets of the company.

Then, we repeated at the end:

Taxpayers shall bear no losses from the exercise of any authority under this title.

I am going to put up the Boxer amendment. It simply fits right on this chart, I say to my friends. It is very simple. If a company is taken into receivership, liquidation must follow. Nobody is being kept afloat. No one's



business is being kept afloat. They are liquidated.

**Recovery of Funds.**—All funds expended in the liquidation of a financial company under this title shall be recovered [either] from the disposition of assets of such financial company, or shall be the responsibility of the financial sector, through assessments.

Lastly, just in case people really wanted it stated—and I see some smiles on faces because we worked together to make sure no one could turn this around—

**No Losses to Taxpayers.**—Taxpayers shall bear no losses from the exercise of any authority under this title.

So let there be no mistake. Senator DODD's arms were open to this amendment. He said this reflects exactly what we have done. But he said: Senator, if you feel better if we put it in one place, we will do it.

I think it is important for the American people to understand the simplicity of the approach: No loss to taxpayers, period, end of quote. So if somebody goes on TV this weekend and says this bill is about bailing out companies and keeping them afloat with taxpayer funds, it cannot be done under the bill, and this amendment certainly brings it home in a very simple, plain English fashion.

I am proud to be working with my colleague Senator DODD. I used to sit on the Banking Committee, and I was kind of lured off the committee because the people in California said: We have to have somebody on the Commerce Committee. We have so much at stake there. So it was tough for me to walk away, but I did walk away. But I still retain the relationships.

I am going to go through what is in the Dodd bill that I think is so terrific—then I am going to yield the floor—because Senator DODD has been talking about this by himself, and I think he deserves to have a bit of a rest and the rest of us should come over here and talk about it.

Again, taxpayer bailouts are done. We know the bill itself does it, but we have made it clear. Taxpayers are covered. We will have a cop on the beat for our consumers. We will know that a Consumer Financial Protection Bureau has only one job, and that is the job to look after our consumers so they are protected from the kind of deceptive and abusive practices that fueled this crisis.

Let's face it, this crisis was fueled by Wall Street, by speculation, no leverage requirements—lots of things—dark markets. This bill takes on these issues.

We see another part: brings disclosure to dark markets. The bill eliminates the loopholes that allow reckless speculative practices to go unnoticed. It brings real regulation to derivatives markets and to the "shadow banking system."

I think we are probably going to have some debate over this. But I can say right now, when I worked on Wall Street so many years ago, I have to

say—too many years ago to remind myself of, but let's say it was a long time ago, and it was in the 1960s—those were the years when a \$12 million share day on Wall Street was breaking all the records. Now a \$1 billion share day isn't that much. We did not have these kinds of instruments. We did not have these kinds of toxic instruments that were so complex.

When I asked Treasury Secretary Paulson about it—he was George Bush's Secretary of the Treasury—he essentially held his head in his hands and said: You know, it is hard for me to explain this to you. That is a fact. It did not build up my confidence very much. I have to say, we need to have a financial system that is understandable by everybody. But certainly the Secretary of the Treasury should not have to hold his head in his hands and say: I can't explain it. We have to end those days, and the best way is sunshine.

So I say to Senator DODD, you did a great job in working to bring disclosure to the dark markets. Senator LINCOLN, working through the Agriculture Committee, I think brought us even more protection, and that is very good. Because I think the President said it well. The President said: We want everyone to prosper. We want everyone to be innovative. But we do not want to put our people at risk. When people start losing in the ways we were losing—20 percent of our net worth; 40 percent, 50 percent the market went down—50 percent of its value—a lot of people lost their dreams, and it was unnecessary. But it happened because there were markets that were in the dark, and there were people who were not fulfilling their fiduciary responsibility to their clients.

What else does the Dodd bill do? It curbs risky behavior on Wall Street. The bill provides for strict new capital and borrowing requirements as financial companies grow in size and complexity and pose a risk to the financial system.

Regulators will restrict proprietary trading—speculative gambling—by critical financial firms. We have situations where a firm is advising a client—and we know this happened with Goldman Sachs—advising clients to buy a particular instrument which happened to be worthless. And I cannot use the word the traders used to describe it because this is a family audience. These were junk, and they called them worse than that. They were junk. They were being sold to the customers of Goldman while Goldman was taking a short position—in other words, a position that bet on these instruments' failure. The kind of e-mails that came out were reminiscent of the e-mails that came out during the Enron scandal, bragging about how widows and orphans were going to get hurt.

Well, if there is anything we should do here, it is to protect our people, not put them at greater risk.

There is going to be an early warning system created to prevent a future cri-

sis—the Financial Stability Oversight Council—to focus on the risks before they lead to a crisis. As a last resort, the regulators can break up a company that is too big to fail.

Lastly, of the big accomplishments of the bill, the bill protects against securities markets scams. It mandates management improvements and increased funding for the SEC. The bill creates a new SEC Office of Credit Rating Agencies to strengthen the regulation of credit rating agencies, many of which failed to correctly rate risky financial products.

I have to say, I am working on an amendment that is even stronger because, for me, as someone who relied on, so many years ago, the honesty of these rating companies—these are the companies that say: This is AA, this is AAA, this is A, this is B, this is bad—they are getting paid by the people who have an interest in them giving a good rating. That is wrong, and we have to do something here to insert some type of responsibility to the public. These rating agencies have a responsibility to the public. I am working on some approaches. We do not have it ready. We are going to talk to Senator DODD, and we hope he will be amenable to it. But we have some thoughts about it.

In this area, the people of this country are putting their hopes and dreams into the financial markets. It has been a great thing, in general, over the years. It has been a great thing because America is a great country, and we have innovation and innovators, and we have venture capitalists who put it all on the line, and they hit, and we can all do very well if we invest, even if we do it through our 401(k) or our company does it through a pension plan.

We know most Americans have a stake in these markets. I heard some things from Goldman Sachs—they said something like this: Well, the people we were selling to were sophisticated, and they should have known better. But they stop short of the truth. Maybe they were sophisticated, and maybe they were not doing their job either; therefore, it trickles down to the people who were relying on that so-called sophisticated investor. All we are saying is, we need reasonable rules of the road. We want to know a rating agency is giving it their best shot to tell the truth about a security. We want to ensure that. If there are new, exotic instruments being traded, that is fine, but let's take a look at them in the light of day so people are fully informed. Then, if you take a gamble, if you are fully informed, that is one thing. But if you do not understand you are taking a gamble, that is another.

So again, I am very pleased we are at this point. Somebody said the only reason we got here is we threatened to work through the night. Maybe there is some truth in that. Frankly, it does not matter to me. We are at this point. We can get to this bill. My Republican

friends who say they want to improve it—they did not try to do it in the committee, is my understanding—but if they want to do it now, I welcome that because I am sure I will support some of their amendments if they are in the spirit of this bill. The spirit of the bill is protecting consumers, protecting taxpayers, making sure taxpayers are never on the hook, and stopping a situation like this one, as shown on this chart, where every newspaper had pictures of people like this who were at a loss to understand: How could this happen in America?

I get the chills thinking about the conversations many Democratic Senators had. I know Republicans had the same conversation with the Secretary of the Treasury and with Fed Chairman Ben Bernanke, in which they basically said: We are on the brink of collapse. We may never come back from this situation.

We cannot forget that. If we do not move to correct the system in ways that are not overly burdensome, but we get it right—and I think Senator DODD pretty much has gotten to that sweet spot on this thing; we may want to move here or there with an amendment—if we can do this, if we did nothing else—and, by the way, we have done other things, and we will do more—this is crucial. It is crucial to consumer confidence. Consumer confidence fuels 70 percent of the market. Let's do this right.

I thank my Republican friends who decided to work with us. I thank Senator DODD for his patience, for his passion, and I am very happy he is leading us because he is so effective and he knows what he is saying.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Connecticut.

Mr. DODD. Mr. President, again, I commend our colleague from California and thank her for her involvement and her ideas and suggestions. Again, it is going to be helpful that we begin with a proposal that I think is going to bring us together. As I said—I cannot speak for others; but at least I have heard, when I have asked people to comment on the Senator's proposal—there seems to be almost unanimity around the Senator's idea. In a debate that is obviously going to have us not with unanimity, as we move forward in a number of areas, I think it is always good to begin where we speak with one voice. I think that common voice is making sure we never again have that too-big-to-fail concept as part of our economic structure.

The Senator will be making a significant and historic contribution to this effort, and I thank her.

Mrs. BOXER. I thank the Senator.

Mr. DODD. Mr. President, I do not have any other requests for time to speak this afternoon on this bill. But it is obviously a leadership call as to what their decisions are to go forward.

Again, I want to say to my friend and colleague from Alabama, we have had a

very good working relationship, and it will continue through this process. We have already been discussing several ideas. I appreciate Senator WARNER raising a couple of issues. The angel investor idea is one that needs to be changed. I know my friend and colleague from Missouri, KIT BOND, has ideas on this as well, and I am going to be getting in touch with him and asking him, along with Senator WARNER and others, to work on some language we can add to our bill. I know Senator CORKER is working on some ideas as well and, again, we want to be cooperative. A number of my colleagues over here have been submitting amendments, including BEN CARDIN and others, SHERROD BROWN. I know Senator SANDERS has some amendments. We have a lot of ideas that are going to be coming up in the coming days, so we have a lot of work in front of us before we complete action on this bill.

Again, I am grateful to Senator SHELBY and the other members of the Banking Committee. They have been very helpful over these many months, and we have had long conversations about this. There are a lot of different ideas as to how this all can work, but each and every one of them made a constructive contribution to the process, and I am grateful to them for that. I am very grateful to Leader REID. Obviously, none of this happens without the involvement of the leader and his very fine staff who have been tremendously helpful in us getting to this point by providing the structure and the organization that allows us to actually begin a debate. Many thought we couldn't even get to this debate. I wish to underscore something Senator BOXER said a few minutes ago. We spent a lot of time over the last 2 weeks; there was a lot of acrimony and finger-pointing as to why we weren't starting. That is behind us. We have now started. Some people want to flyspeck that debate. The fact is, we are on the bill and we are moving forward. That is good news. My hope is, over the next few weeks, we will complete this bill.

With that, I will note the absence of a quorum and let the leadership decide what they want to do.

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

Mr. BROWN of Ohio. Mr. President, Wall Street's crisis became the Nation's crisis. Lost jobs in Toledo, foreclosed homes in Bedford Heights, frozen credit for small businesses in Lebanon, State budget shortfalls, and the list goes on and on. It can't happen again. We must not let it happen again.

One of the most disturbing aspects of the Wall Street reform process is, some policymakers started with the premise

that, first of all, Wall Street wealth must be protected. Sure, they have their lobbyists. Sure, they have their PR people spinning. But it amazes me to think that is where some people started this whole debate. They focused their energies on minimizing the safeguards put in place to protect our Nation from another financial meltdown.

In this morning's Washington Post, E.J. Dionne quotes an e-mail from an arrogant banker, who happens to work at Goldman Sachs, who wrote:

What if we created a "thing," which has no purpose, which is absolutely conceptual and highly theoretical and which nobody knows how to price?

At some point, we have to ask in this body: Whom do we report to, the megabanks that raked in millions by gambling with the livelihoods, the homes, the retirement security of middle-class Americans, or do we report to middle-class Americans themselves? Is our job to protect Wall Street or is our job to protect against more taxpayer-funded bailouts?

In my view, we must take the steps necessary to eliminate bailouts and establish foolproof financial protections for the Americans we represent, and we do it even if the behemoth banks don't like it, even if Wall Street lobbyists don't like it, and even if most of my Republican colleagues don't like it. That is what the amendment I will offer on Tuesday is all about.

In the last few decades, the banking industry has become so concentrated it no longer functions as a competitive market. Yesterday I met with Kansas City Fed President Dr. Tom Hoenig. He observed that since 1990, the 20 largest financial firms have increased their control of banking assets. They once controlled 35 percent of those assets. Today they control 70 percent. Some firms are 30 to 40 percent larger than they had been just before the crisis.

What does that mean? We are twiddling our thumbs as Wall Street once again places our Nation at risk.

Think about this: 15 years ago the 6 largest U.S. banks had assets equal to 17 percent of GDP. Today, the 6 largest megabanks in this country have combined assets of 63 percent of GDP; from 17 percent 15 years ago, percent of GDP, assets as a percent of GDP, to 63 percent today. Three of these megabanks have close to \$2 trillion—that is two thousand billion—\$2 trillion of assets on their balance sheets and over \$1 trillion in liabilities. Because our economy rides on a few megabanks, taxpayer-funded bailouts are far more likely than if these banks were not so dominant.

As we have seen, that is not the only downside of banking concentration. It also jeopardizes our small businesses which generate over 60 percent of new jobs. The current distortion in the market gives privileged large banks clear funding advantages, up to \$34 billion annually over smaller community banks. These large banks could game the system far too often at the expense

of the smaller banks, at the expense of the community banks. These large banks have put a virtual freeze on spending on small businesses—despite receiving this taxpayer bailout.

Three of these largest banks slashed their SBA lending by 86 percent from 2008 to 2009. In Ohio, SBA-backed loans—those are government-guaranteed loans to help small business. I know the Presiding Officer has fought for small business in Duluth and Rochester and St. Paul, as I have for small business in Toldedo and Dayton and Cincinnati. In 2007, SBA-backed loans in my State went from 4,200 to only 2,100 in 2009. They basically were cut in half.

I have heard from manufacturers and entrepreneurs, energy startups and mom-and-pop corner stores—all small business owners who strive to be in the middle class and bring their employees up to the middle class, who are struggling to get the credit they need to hire workers and expand businesses. They have the capacity, they have the customers, they simply cannot get the credit they need to expand. It is clearly not the small banks who are cutting their lending. In fact, according to the Kansas City Fed, 45 percent of banks with assets under \$1 billion actually increased their business lending in 2009.

What do the megabusineses do instead of lending? In the last year Wall Street megafirms have increased their trading by 23 percent. They are trading with each other on Wall Street so they can make money. They are not making loans to Main Street because it simply is not as profitable for them.

Last year, we let 100 community banks fail across the Nation. Meanwhile, we spent \$165 billion of taxpayers' money to keep the big six banks afloat. But the cost of having these six megabanks is even greater. The Bank of England estimates that the true social cost to our economy of the financial crisis has exceeded \$4 trillion, four thousand billion dollars. If we don't want another economic crisis, if we don't want more small business failures, if we don't want more bailouts, we need to do something about the unprecedented concentration of wealth among a few large banks.

That is why Senator KAUFMAN of Delaware, Senator CASEY of Pennsylvania, Senator MERKLEY of Oregon, Senator WHITEHOUSE of Rhode Island, Senator HARKIN of Iowa, Senator SANDERS of Vermont, Senator BURRIS of Illinois, and I have introduced this amendment modeled after the Safe Banking Act of 2010. These Senators come from the East and the South and the Midwest and all over our country. They will rise with me in support of the Brown-Kaufman amendment.

It would prevent any financial institution from becoming so large that it could jeopardize the entire economy. Too big to fail means too big to exist. The amendment would scale back the six largest banks of the Nation—just six banks but six megabanks. Those six

banks' total assets, as I said, are 63 percent of gross domestic product in this country. This amendment would require them to liquidate some of their bank before it is too late.

That would mean they could spin off one of their lines of work, they could reduce one of their lines of work, they could do less business in one region—whatever—so they are not megabanks with this kind of power over our economy.

Our amendment would place statutory limits on the leverage of these banks. Our amendment imposes sensible size constraints on these banks. The leverage ratio would be set in the vicinity of 6 percent—about 16 to 1.

We saw on Wall Street one of the things that brought on this crisis was there were ratios of 25 and 30 and sometimes even 35 or 40 to 1. This amendment would cap concentration of deposits held by any one bank at 10 percent of the Nation's deposits, about \$750 billion—not small but not so humongous as they are now.

The bill we will be considering beginning next week is strong, but it needs to be stronger. It focuses on monitoring risk—that is the right thing—and taking action should regulators believe the risk has grown too big. But we know the regulators didn't exactly do it right during the Bush years, and that is why it is so important that we write legislation in a way to keep these large banks from getting too big. We should not just monitor risk until we are once again on the brink of trouble. We should learn from recent history and correct our regulatory mistakes by nipping risk in the bud. That means preventing the anticompetitive concentration of banks that become too big to fail and bank on that to engage in high-risk behavior. Not only would our amendment help prevent bailouts and protect us against economic collapse, it would help boost lending to small businesses.

I am joined in the Chamber by the Senator from Louisiana who has specialized in finding ways to help small businesses. She knows, as I do, these small businesses have not gotten the kind of credit they need to expand; that they have the capacity to grow; that they have the employees, they have the customers, but they too often have not been able to get credit.

The Brown-Kaufman amendment would take action now to prevent economic collapse and taxpayer-funded bailouts in the future. We believe the American public does not want regulators to wait and see whether another crisis develops. We should prevent it before it starts.

Too big to fail is too big. The American people saw the arrogance of Goldman bankers who seem, with little regret, without second thought, to completely disregard the public interest. They want us to teach Wall Street megabanks a lesson that they will never again monopolize America's wealth or gamble away America's dreams.

This is not about retribution. This is about protecting the American public from banks too big to fail, banks that are too big to exist. It will affect a relatively small number of banks, but these banks, frankly, have too much power over our economy. These banks, coupled with their risk and their size, present a real threat to the future prosperity of our great country.

I yield the floor.

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

Ms. LANDRIEU. Madam President, I ask to speak as in morning business for up to 10 minutes.

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

Ms. LANDRIEU. Before I begin on my topic, which is different from the topic of the Senator from Ohio—I thank him for his comments about our focus on small business and assure him, as the Chair knows, that we are doubling our efforts this week to hone in on a package of support and help for small businesses in America. We believe the recovery can take place and will take place, but it will be led in large measure by the small businesses in America. We are going to do our very best, after we deal with this bill that is on the Senate floor, to focus the attention of the Senate in that regard.

I thank the Senator from Ohio and look forward to working with him in the weeks ahead.

#### TRAGEDY IN THE GULF

Madam President, I rise today, though, to speak on an equally serious subject—actually, a tragedy and disaster that is occurring right now off the coast of my home State, in Louisiana. On Tuesday, on April 20, as we all now know, at approximately 10 p.m., a tremendous and terrible explosion occurred aboard a state-of-the-art drill ship, the Transocean Deepwater Horizon.

There were 126 men and women on-board that rig. It was drilling in almost 6,000 feet of water—a real technological feat—some 50 miles off the Louisiana coast. The explosion, unfortunately and sadly, killed 11 men and 17 others were injured—3 of them critically—and today 1 remains in the hospital.

We don't know what precisely caused this accident, but at present it appears that the blow-out preventer failed. We do not know why.

The blowout preventer is a very large piece of equipment. I would like to try to explain.

It is, of course, very dark down in the depths of the ocean. This is the best picture we have. This is what the floor of the ocean looks like. This is the blowout preventer. This is a graph of it.

It is a standard piece of equipment on all wells, and it is a huge piece of equipment on a well like this. It would weigh up to 500 tons. It is about 18 feet in length. At some point this piece of equipment, which is standard—this piece of equipment, which is tested every 14 days, as required by law—

failed. This actual piece of equipment, this blowout preventer on this rig, was actually tested 10 days before this tragic incident, and it passed the inspection.

The investigation that is fully underway now and will continue for many weeks and months will tell us more. But what we know today is the blowout preventer failed. The explosion that occurred ignited the oil and gas that flowed from a riser pipe that was connected to the well at the sea bed. This riser pipe is a very thick and strong pipe. Right now, today, as we speak, it is curled on the bottom of the ocean floor much like a garden hose would be, twisted in many places, but the well is not closed. So there are anywhere from 1,000 to 5,000 barrels of oil leaking from this well.

Despite heroic efforts that have been underway now for days, this has not been closed. This will continue to leach and leak until it is. The rig burned, as did the oil and gas that issued forth, for some 36 hours, and then the rig began to take on water and ultimately sank to the sea floor.

As I said, we know what the leak rate is, and it is headed to shore. These are the facts. Everyone agrees this accident was and is an unmitigated disaster. I know the hearts and prayers of everyone in the United States are with the families of those who lost their lives and those who are injured and we continue to pray for them as they recover.

But the issue for us is to acknowledge this and to make decisions about how to move forward. Today, the U.S. Coast Guard reports that a rainbow sheen can be seen in the water—I will put up a map in a minute—about 32 miles by 42 miles in length. What is important about this sheen is that 97 percent of it is a rainbow sheen. Only 3 percent contains emulsified crude.

I would like to take a moment to explain what emulsified crude means. It is a thicker oil clotted in water, but even in the areas where the crude has beaded or gathered on the water's surface, it is a very thin layer. In fact, in a briefing with the Coast Guard yesterday, the oil slick at its thickest point is about a millimeter or two in thickness, about the thickness of a couple of strands of hair.

So it is important to understand why this is an unprecedented disaster. The oil slick is wide and covers a large section of our ocean. It is very thin; 97 percent of it is an extremely thin sheen of relatively light oil on the surface.

I do not say that to diminish the tragedy, but to accurately convey to the American people what we are dealing with. This is not the heavy, thick oil that stained the Santa Barbara coast in 1969, nor does it look like Prudhoe Bay crude that spilled from the ruptured hull of a tanker in 1989.

But what is of immediate concern to the people of my State and the Gulf Coast is that the oil sheen is approaching our shores. The edge of the sheen is

approximately 23 miles off the coast of Plaquemines Parish. This could change in a few days. We do not know. But it looks as though the spill is going to move right to the mouth of the Mississippi River, to the Bayou La Loutre Pass.

In the meantime, I do know that there are 56,000 feet of flexible barrier that have been deployed to contain the spill. That is about 15 miles of barrier. An additional 31 miles is available to be deployed, and 72 miles of barrier and buffer have been ordered.

I also know there are literally hundreds if not thousands of people—I have been on the phone with the Commandant of the Coast Guard, I have been on the phone the last 3 days with the Admiral of the Coast Guard, Mary Landry. I have spoken to the Department of Interior, I have kept in touch with local and parish officials. I do know there are hundreds and thousands of people at work, in Houma, LA, outside of Hammond, LA, and hundreds along the coast doing everything they can to minimize potential damage to our shore.

We are investigating every hour what more can be done. There are 70 response vessels in place. They are being used as skimmers, tugs, barges, and recovery vessels, and approximately 1,000 government/industry response personnel are on site responding to the incident. Some 65,000 gallons of dispersant have been deployed, and an additional 110,000 gallons are available. And, today, a controlled burn began. There are different views about how this oil can be eliminated. Some of it is dispersed naturally, some of it can be burned. It has to be corralled and burned and, of course, controlled.

This has not happened in this depth of water. So the industry and our government officials are using everything known at our disposal now to take care of it. Some of it will be trial and error.

I want to spend a minute about what the options should be. We have seen disasters such as this before. We have seen them in the oil industry when tankers explode or hit ground. We have seen them in shipping, when ships, for no apparent reason, sink in the middle of an ocean. We have seen them in the nuclear power industry. And, in fact, we have seen them in our space program.

We must react to this disaster in the measured but right way. We must apply the lessons of past tragedies to this one, so we can make the best and wisest decisions that will instruct us about how to move forward. I do not believe we can react in fear. I do not believe we should retreat.

One option would be the way we dealt with, and I think it was a poor choice, the Three Mile Island nuclear powerplant disaster. There were no deaths or injuries, but the disaster was so frightening to people, there was so much concern, that basically we brought all new nuclear powerplant applications to a screeching halt.

In hindsight, that was not the right decision. Today, we are 30 years behind the French in nuclear technology. France gets 80 percent of its electricity from nuclear; we get less than 20. France is the largest net exporter of electric power, exporting 18 percent of its total production to Italy, the Netherlands, Belgium, Britain, and Germany. Its electricity cost is the lowest in Europe.

Today, Areva, a French company, is the world's leading nuclear company. It could have been a U.S. company, but it is not, because we ran, we retreated out of fear. We did not, in my view, respond the way we should have.

For those who are interested in reducing carbon emissions—and I am one of them—consider that France's carbon emissions per kilowatt hour are less than one-tenth of Germany's, and one-thirteenth that of Denmark. France's emissions of nitrogen oxide and sulfur dioxide have been reduced by 70 percent over 20 years, even though their total output of power has tripled. Let me repeat that. Its emissions of nitrogen oxide and sulfur have been reduced by 70 percent, even through their production has tripled because they moved forward with nuclear power, found a way, fine-tuned their technology.

But because of our poor and inappropriate and wrong reaction, our United States has largely sat out of the nuclear renaissance at great expense to our country. We have allowed foreign companies to step in as global leaders and 30 years later we are now trying to make up that ground. So retreat is not an option.

By contrast, we can look at how we, the United States, responded to the 1986 disaster of the Space Shuttle *Challenger*. I can remember exactly where I was, as many Americans can remember when that incident happened. We all remember the joy of the takeoff and of the launch, and then the unbelievable visual of that space shuttle exploding into a billion pieces in space, losing all seven lives, and, remember, there was a teacher on board, Christa McAuliffe. The horror of that disaster shocked us all, and it haunts us to this day. However, what we did not do is end the space program. We did not stop launching. We did not stop exploring.

As we go through with this disaster, and we handle it, whether it takes us a week or several weeks or a month or several months, we have to find a way to make sure it never happens again, strengthen our resolve, strengthen our technology, and continue to be the world leader in clean technology in this world. We did not declare the risks were too great and the benefits of the program were too few. We moved forward. As a result, the United States remains a global leader in the space race, and we must continue to remain a leader in energy production, even as we transition from fossil fuels to wind and solar and other offshore opportunities.

No one has ever claimed, including myself, an unabashed proponent of the

industry, that drilling is risk free. The people of my home State of Louisiana know these risks better than anyone, both the safety of the rig workers, and to the environment itself. But we also know that America needs 21 million gallons of oil a day to keep this economy moving. Twenty-one million gallons of oil a day are necessary for this economy. This well is leaching right now 5,000. That is less than one-fourth of 1 percent of the oil that is necessary.

So we must continue to drill. For advocates who say we cannot afford to drill off our coast, then what coast should we drill off of? Should we have all of our oil coming, 100 percent, from Saudi Arabia or Venezuela or Honduras or West Africa? We have to take responsibility to drill where we can safely. Out away from our shores is as safe as we can be. We obviously have to improve our technology, and that we will. Retreat, we will not.

Let me give a few more facts, and then I will wrap up my comments. It is more risky to import our oil in tankers than it is to drill for it offshore, even considering this disaster we are dealing with today. According to a report by the National Academy of Sciences, spills from tankers bringing oil in from overseas account for four times as many oil spills as does offshore drilling.

Compared to how much oil we use in this country, the industry spill rate is quite low. Minerals Management Service reports offshore operators have a spill rate of only .001 percent since 1980. That means that 99.99 percent of all oil is produced, transported, and consumed safely.

Again, I am not saying that to minimize this disaster. We know the blowout preventer failed. There may be other safeguards that must be put into place. The investigation will show that. There may be those who need to be held accountable. The investigation will show that as well.

But the fact is, natural seeps introduce as much as 150 times more oil into our oceans than does offshore drilling. I agree we do not want to drill everywhere. I do not think we should drill in Yosemite National Park. I believe there are places such as the Great Lakes and other places potentially off the Atlantic Coast that we should not drill. But using the right amount of buffer zone, whether it is 50 miles, or 35 miles, or 100 miles, using up-to-date technologies, backup blowout preventers, something I am learning about that actually goes on in Norway and other countries, might also reduce these risks even further.

But let me say one more word before I close, a word about revenue sharing. I have been probably the most outspoken advocate in this Senate, and will continue to be, and am proud of my advocacy on the part of coastal States, particularly the States of Texas, Louisiana, Mississippi, and Alabama, that have been host to this industry for the better part of 75 years.

We have lived through its ups and downs. We have lived through disasters such as this, and periods of relative calm. We have benefitted from the millions of dollars that have benefitted our States indirectly through jobs. But with all that we have done, generating almost \$5 billion in taxes off the Gulf Coast, out of this Gulf Coast, \$5 billion a year comes to the Federal Treasury. The fishermen in Plaquemines Parish, the fishermen in St. Bernard, the schoolchildren in Orleans and in Jefferson have not received one penny, even though in our whole State today, many people along the coast are standing watch to keep this oil spill from our shores.

We have come here time and time again and said, we are proud to be partners in this industry, even today, in the midst of this disaster we still have. But you must understand the risk. We do. And we would like to have a portion of that funding to help us either have the kind of technology in place to invest in our wetlands, to fill up some of these canals that have been left, even as we make the industry reach to higher and better standards. I hope that as people watch this disaster unfold, they will hear again the call of the gulf coast Senators and House Members to allow us to share these revenues in a fair way so we can all benefit from the upside, and most certainly share the downside, as we will do in the next weeks and months ahead.

We are going to continue to monitor, to react, to do everything we can to save the environment, to investigate the accident, to continue to nurture and care for those who are still injured, and to comfort those who have lost members of their family. There is a young mother I spoke to who lost her 21-year-old husband, and will be raising a 3-month-old and a 3-year-old by herself, at least for the foreseeable future. There are many other stories like that. But we are proud to be part of producing the resources this country needs, as we work on technologies to prevent these kinds of disasters in the future. We do not believe that moving this production completely off of our shore is the answer. We do not believe burying our head in the sand and pretending the country does not need 21 million gallons of oil a day, or pretending we can get this energy tomorrow from somewhere else—we may get it somewhere else in 20 or 30 years, but not next week, and not the month after, and not the year after.

So let us be careful in the way we move forward. Let us be measured. Let us be open to hear the facts. Let us hold people accountable for what happened and understand what happened and prevent it again. In the meantime, I know the Coast Guard, the military, Louisiana's agencies, and our local officials are going to do everything we can to protect our people and our environment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

#### MORNING BUSINESS

Mr. FRANKEN. Madam 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.

#### DISCLOSE ACT

Mr. FRANKEN. Madam President, I rise to support the Democracy Is Strengthened by Casting Light On Spending in Elections Act, or the DISCLOSE Act, Senator SCHUMER's bill to fight the effects of the Citizens United decision.

I want to tell Minnesotans listening at home why I support this bill. I want to talk about the problem this bill addresses and how this bill fixes that problem. I also want to talk about a part of this legislation that came from a bill I introduced earlier this year.

A lot of people don't follow the Supreme Court very closely, so I would like to summarize what the Citizens United decision does. In a nutshell, it allows corporations to spend as much money as they want, whenever they want, in any election in this country. It lets corporations spend their shareholder money to do this. What is worse, it will allow foreign subsidiaries, wholly owned by foreign governments, to spend just as much money as their American competitors.

This decision changed our election laws in a radical way. In a single decision, the Supreme Court reversed a century-old legal standard, 2 Federal laws, 24 State laws, including a 20-year-old Minnesota law, and 2 of its own decisions, one of which it handed down just 6 years ago. I am not a lawyer and I don't speak Latin, but unless the term "stare decisis" means "overrule stuff," I think we have an activist court on our hands.

But I don't want to talk about legal precedent; I want to talk about how this decision will affect people's everyday lives. I want to talk about the crisis Citizens United has created for communities; for the safety of our communities and for our ability to run them without a permission slip from big business.

Let me give a couple of examples of policies that might never have been enacted if Citizens United had been the law of the land.

As of 1965, when America's population was about half as large as it is today, 50,000 people died every year from car accidents. Believe it or not, the auto industry knew full well it could prevent a large portion of highway deaths just by installing seatbelts in every car they sold. But as late as the early 1960s, they refused to do that. They said: "Safety doesn't sell." They lobbied against legislation to require seatbelts.