



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, SECOND SESSION

Vol. 156

WASHINGTON, FRIDAY, MAY 14, 2010

No. 73

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JEFF MERKLEY, a Senator from the State of Oregon.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Gracious God, in whose presence the dark night of anxiety is dispelled by the dawn of Your peace, thank You for guiding us beside still waters. Lord, we do not ask for faith for the whole of life but for enough trust to live one day at a time.

Draw our lawmakers near to You so that they may see the beauty of Your purposes and discern Your plan. Purge their thoughts and speech that no unworthy communications may proceed out of their mouths. Lord, teach them new truths today, so that they may soar on the wings of Your joy and light.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEFF MERKLEY led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 14, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF MERKLEY, a Sen-

ator from the State of Oregon, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. MERKLEY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The ACTING PRESIDENT pro tempore. 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.

Pending:

Reid (for Dodd/Lincoln) amendment No. 3739, in the nature of a substitute.

Brownback modified amendment No. 3789 (to amendment No. 3739), to provide for an exclusion from the authority of the Bureau of Consumer Financial Protection for certain automobile manufacturers.

Brownback (for Snowe/Pryor) amendment No. 3883 (to amendment No. 3739), to ensure small business fairness and regulatory transparency.

Specter modified amendment No. 3776 (to amendment No. 3739), to amend section 20 of the Securities Exchange Act of 1934 to allow for a private civil action against a person that provides substantial assistance in violation of such Act.

Dodd (for Leahy) amendment No. 3823 (to amendment No. 3739), to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

Whitehouse amendment No. 3746 (to amendment No. 3739), to restore to the

States the right to protect consumers from usurious lenders.

Dodd (for Rockefeller) amendment No. 3758 (to amendment No. 3739), to preserve the Federal Trade Commission's rule making authority.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

AFGHANISTAN

Mr. CASEY. Mr. President, I rise this morning to speak about the visit this week by Afghan President Karzai and many of his ministers, as well as the policy that is unfolding all these many months in Afghanistan.

I rise in the midst of a debate we are having in the Senate on financial reform and continuing efforts and strategies to be put in place to create jobs. Even in the midst of all those domestic concerns that are economic in nature—and we are still very concerned about and working on the problems of those who are out of work—we need, in that context, to also be concerned about what is happening in Afghanistan. So I wish to discuss President Karzai's visit and, as I mentioned, the visit, as well, by other Afghan government officials.

The other reason I rise in connection with that topic is to talk about the continuing threat our troops face from improvised explosive devices known by the acronym IEDs. They continue to pose a threat to our troops, and we have to continue to be concerned about the nature of that threat.

In a broader sense, when it comes to this policy, we have to get this right. We have to make sure our government is continually focused on getting this strategy right in Afghanistan, as it relates to security, governance, and development—all aspects of the strategy, working with our coalition partners in doing that.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S3769

First and foremost, on the question of IEDs, the Los Angeles Times reported last week that three-fifths of the 602 combat-related deaths of U.S. troops in Afghanistan were due to roadside bombs, the so-called IEDs, improvised explosive devices. The primary ingredient in these bombs is ammonium nitrate, a fertilizer that can also be used as an explosive. We know this from our recent history.

We also know we have some domestic history to consider. Timothy McVeigh used a 4,800-pound ammonium nitrate bomb to attack the Alfred Murrah building in Oklahoma City in April of 1995.

The Afghan Government has recognized this problem—the use of ammonium nitrate—and has begun working with coalition troops to crack down on the use of ammonium nitrate. It is no longer legal in Afghanistan to use ammonium nitrate in farming, and Afghan farmers receive training on how to use other types of fertilizer.

During yesterday's press conference President Karzai had with President Obama, he discussed the use of ammonium nitrate and, in particular, its impact on U.S. troops. I was glad he did that. I am glad President Obama has been focused on this issue as well. I had a chance yesterday, in a lunch with a small group of Senators, to ask President Karzai directly about this issue. So we talked about it yesterday at lunch as well.

Despite this ban in Afghanistan, ammonium nitrate manages to make its way to Afghanistan, reportedly from Pakistan. The Los Angeles Times reported that transport routes are lined with corrupt Pakistani police officers—according to the Los Angeles Times—and border officials who accept bribes to allow this smuggling to occur. This smuggling is a lucrative enterprise. One Pakistani businessman reported making almost \$950 a month smuggling ammonium nitrate for use in Afghanistan. This is a country where the monthly average income is \$216 a month.

I urge the Pakistani Government to track and regulate the transport of this dangerous material. The government appears to recognize that ammonium nitrate could also pose a threat to Pakistan's national security as extremists across the country step up their activities there as well. As in Afghanistan, it is important for the authorities in Pakistan to first show the political will to address this problem, and to put in place proper legal mechanisms to diminish its use across the border in Afghanistan.

Ammonium nitrate's use in IEDs is the main killer of U.S. troops in Afghanistan. We must do all we can—all we can—to limit its use.

I understand that if ammonium nitrate did not come from Pakistan, smugglers would identify new sources from other bordering countries. While this may be the case, it appears as though the primary source today is

Pakistan. In this case, Pakistan is where we should focus our attention. So let's get at the supply of ammonium nitrate. Let's make it much harder for terrorists to kill U.S. troops.

Let me move next to the overall policy in Afghanistan. I was honored to be one of seven or eight Senators to have lunch yesterday with President Karzai. During his time in Washington, we were all pleased—I think both sides of the aisle in the Senate were pleased—that President Karzai reiterated his commitments to improving governance and reducing corruption. They are commitments, but I think the people of Pennsylvania and the people across America need to see results from those commitments. I also hope President Karzai will restate his support for NATO efforts to win back the country from the Taliban and drive the insurgents to the negotiating table.

In a meeting with Afghan Government ministers on Wednesday, five or six other Senators and I emphasized the importance of women's rights in Afghanistan. Afghan women play a key role in the decisionmaking process. Any peace process or agreement that does not respect and uphold the rights of half of the population—the women—of Afghanistan will fail to achieve long-term goals for security and stability.

In February, Senator BOXER and I cohosted a Senate Foreign Relations Subcommittee hearing on the future of Afghan women and girls. At that hearing, Melanne Vermeer, the U.S. Ambassador at Large for Women's Issues, testified about the challenges Afghan women and girls face. She said:

Perhaps the greatest remaining impediment to women's full civic participation is violence against women and girls, which remains endemic in Afghan society. Crimes go unpunished because of anemic rule of law and weak institutions of justice. Approximately 80 percent of crimes and disputes are settled through traditional justice mechanisms.

So said Melanne Vermeer, who knows of what she speaks.

This is a continuing problem. It is not just a moral problem. This is a problem long term for us as well because if the women of Afghanistan—women and girls—are not treated with respect, are not accorded the kind of rights and being given the benefit of a system of justice that will protect them, then our whole strategy in Afghanistan is undermined.

We cannot just win this on the battlefield. This is not just about the military. There are two other aspects that are so important to this strategy: governance and development. Of course, when you are talking about governance, you are talking about a system of justice. If half the population is the continued target of violence, and if half the population is not accorded basic rights and given the benefit of a functioning system of justice, our strategy in Afghanistan will fail.

This is a problem, not only because of the current concern we have about

how women and girls are treated in Afghanistan and around the world, as well as here in the United States—that is the main reason for our concern—but it is also connected directly, and I think is inextricably intertwined, with our strategy as it relates to governance in Afghanistan.

We know that since the fall of the Taliban, there have been some improvements in women's rights, such as the creation of the Ministry for Women's Affairs and the guarantee of equal rights for men and women in the new constitution. Indeed, Afghan women remain among the worst off in the world with respect to life expectancy as well as quality of life. So even though progress has been made, we need to see a lot more in the way of results.

I am encouraged by the recent measures undertaken at the top of Afghanistan's Government to include the voices of women in the consultation process leading up to the Peace Jirga. However, I believe it is essential the Afghan Government take immediate measures—immediate measures—to include qualified women, who have a record of public service—civic or community service—in meaningful senior roles at every level of the government and in the peace process.

We were—I know I was; and many of us were—very impressed by the women we met who are active participants in the Afghan Government. But much more needs to be done.

Let me move next to more of the military aspects of our strategy: both in Marjah—the operation that took place over the last couple of months—as well as the upcoming operations in Kandahar.

On April 29, the Pentagon released its biannual report to Congress on the last 6 months in Afghanistan. By all accounts, it was sobering. The report portrays an Afghan Government with limited credibility among its people. In 92 districts assessed for their support of the Afghan Government or their antagonism to it, not one supported the government, not one in 92. I realize that sometimes when a report comes out, it is dated and it may be that improvements may have been made over the last couple of months, but the most recent report was not good in terms of support for the Afghan Government.

Again, our strategy will not be successful unless the Afghan Government can improve those numbers of support from its own people. This is an important issue that President Karzai and the rest of the government must continue to address. I think they are taking steps to do that but much more needs to be done.

The Pentagon report highlights one positive development: The Taliban is seen by 52 percent of Afghans as the chief cause of instability. So the message is getting out to the people about the destructive impact of the Taliban. This perception provides the Afghan Government with an opportunity to show itself as the protector of the people.

One area in which ISAF and international aid donors can help build public confidence in their government is food security and distribution. Not only is the agricultural sector critical to the well-being of all Afghans, both agriculture and food distribution are caught up in the problems raised by Afghan dependence on opium cultivation, extortion, and corruption in aid and transport operations for that, as well as manipulation by national and local power brokers.

The United States has begun shaping operations, mostly political, in and around Kandahar to prepare for the next major military campaign. While we can apply the lessons learned in Marjah, the Kandahar campaign will be a formidable test of our counterinsurgency plan. Kandahar is the second largest city in Afghanistan, the birthplace of the Taliban, and the Taliban still has considerable support there.

In judging the success of Kandahar from Washington, we should be aware of the significant political and cultural complexities because of the coalition's need to shift between fighting and outreach in Afghanistan. The contest for public sentiment among Afghan civilians will arguably be more important over the long run than the relative effectiveness of each side's military skill.

A functioning government which maintains credibility in the eyes of the people of Afghanistan will be necessary if civil military strategy is going to have any chance of success. We must continually stress the movement toward this goal so as not to lose sight of our objectives in Afghanistan. Again, we have to be concerned about three things: first, military concerns and the strategy as it relates to the military campaigns; second, governance; and third, development.

The ability of nongovernmental organizations and other aid organizations to do great work is hampered by corruption and the ineffectiveness of the government. Militarily removing the Taliban influence must be accompanied by the timely and effective delivery of emergency aid and refugee assistance. It is only when the government has the capacity to operate in an effective manner that all the tools can be applied to increasing the quality of life of local Afghans as well as presenting an alternative to the Taliban's form of rule.

The upcoming operations in Kandahar will be the largest to date aimed at securing the population through General McChrystal's population centric civil-military strategy. However, if the government is not capable of providing the capacity necessary to follow the military clearing operations, the strategy will not succeed.

Our brave men and women who serve this country deserve a reliable partner in the Afghan Government. We must work assiduously and continually to realize this vision of a peaceful and stable Afghanistan.

In conclusion, first of all, I wish to thank President Karzai for what he said here in the United States, what he did here to reiterate the goals we have, the partnership between our government and his government to get this policy right. After my two visits to Afghanistan in 2008 and 2009, I have been very critical of President Karzai. I must say, based upon the last couple of months, based upon the work he did here, the statements he made, and some actions he has taken, I have more cautious optimism, I will say, than I had before about his ability to move forward, helping us on this strategy; his ability to build confidence, the confidence of his own people; his ability to have a positive impact not only as it relates to our military strategy but, of course, especially governance as well as the development after military campaigns take place. I also appreciate the fact that President Karzai showed great respect not only for our fighting men and women in the field and their families but especially for those who gave, as President Lincoln said a long time ago in Gettysburg, the last full measure of devotion to their country when he visited the graves of some of those who perished in that conflict.

So we have reason to be more optimistic, but the test will be over time and based upon real results, facts on the ground as it relates to the military operations, governance, and development. So this strategy bears a lot of scrutiny.

In conclusion, I ask unanimous consent to have printed in the RECORD a Los Angeles Times story of May 3, 2010, entitled "Key Bomb Ingredient Is Smuggled in Freely in Pakistan."

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

[From the Los Angeles Times, May 3, 2010]

KEY BOMB INGREDIENT IS SMUGGLED IN
FREELY IN PAKISTAN
(By Alex Rodriguez)

PESHAWAR, PAKISTAN.—Twice a week, a caravan of trucks lumbers out of this volatile northwest Pakistan city in the dead of night and makes its way toward Afghanistan, loaded with one of the most coveted substances in a Taliban bomb maker's arsenal: ammonium nitrate fertilizer.

Every time the illicit caravan makes its trip, it moves unhindered past a gantlet of Pakistani police checkpoints along the Pak-Afghan Highway. A string of bribes paid out to police, politicians and bureaucrats ensures that the smuggled explosive agent reaches its destination, middlemen on the Afghan side of the border who sell it to insurgents, says the co-owner of a Pakistani trucking firm that dispatches the caravans.

Banned in Afghanistan, ammonium nitrate is the basic ingredient of the Taliban's roadside bombs. The amounts ferried into Afghanistan are staggering. Each truck carries 130 bags, each of which contains 110 pounds of ammonium nitrate. A caravan typically has at least 12 trucks, which means a single night's shipment can move 85 tons of the fertilizer.

The caravans head out every third night.

"I know that it's used to kill American soldiers," said the businessman, a lanky, thirty-something Pashtun from the Khyber

district in Pakistan's tribal areas, a haven for Taliban militants. He agreed to discuss his company's smuggling on condition of anonymity.

"But people in the tribal areas don't have any choice but to do this," he said. "If they would give us another way to make money, we would take it."

Of all the threats U.S. troops face in Afghanistan, the roadside bomb is the one they dread most. Western forces have suffered 602 combat-related deaths since the beginning of 2009, and 361, or three out of five, have been caused by roadside bombs, according to icasualties.org, a website that keeps track of war-related deaths in Afghanistan and Iraq.

Ammonium nitrate bombs, often crude wood-and-graphite pressure-plate devices buried in dirt lanes or heaps of trash, are difficult to detect and devastating when they detonate. The fertilizer's might as an explosive agent was witnessed in the United States in 1995, when Timothy McVeigh's 4,800-pound ammonium nitrate bomb killed 168 people at a government building in Oklahoma City.

In Afghanistan, a typical homemade bomb weighs about 65 pounds, most of it ammonium nitrate. A shipment of 85 tons of ammonium nitrate could yield more than 2,500 bombs.

Made by combining ammonia gas and nitric acid, ammonium nitrate is one of the world's most popular fertilizers. It was used by Afghan farmers, but because of the roadside bombs, the United States persuaded President Hamid Karzai's government to ban the substance in January.

But Pakistani smugglers continue to truck massive amounts into Afghanistan. Several other countries in the region, including Uzbekistan and Iran, also manufacture the fertilizer, but almost all that gets into Afghanistan comes from Pakistan, says Kenneth Corner, director of intelligence at the Joint Improvised Explosive Device Defeat Organization, a research arm of the U.S. military that develops ways to detect and withstand roadside bombs.

Pakistan makes 496,000 tons of ammonium nitrate fertilizer each year. It also imports ammonium nitrate from several countries, including China, Germany and Sweden, Comer said. The U.S. has begun talks with Pakistani officials to persuade them to ban the manufacture and use of ammonium nitrate and switch to urea as the country's main fertilizer. Unlike ammonium nitrate, urea cannot be readily used as an explosive.

"I can't find anyone who thinks ammonium nitrate makes sense as a fertilizer as opposed to what's more commonly used in both (Pakistan and Afghanistan), which is urea," Comer said.

Officials in Islamabad, the Pakistani capital, say such a ban would be a hard sell in Pakistan. "It would cost hundreds of thousands of dollars for the (sole) manufacturer to switch to urea," said Qadir Bux Baloch, spokesman for the Agriculture Ministry.

As long as ammonium nitrate remains legal in Pakistan, the U.S. will have to rely on Pakistani police and border authorities to curb smuggling. For the time being, however, rampant corruption within the ranks of law enforcement and local government allows ammonium nitrate to be smuggled freely into Afghanistan.

The Khyber businessman said his company pays about \$830 in bribes for a single truckload of ammonium nitrate. About 40 percent of that goes to local police, he said, and the rest gets paid out to local officials.

Middlemen on the other side of the border bribe Afghan authorities so they can transfer the shipments to their own trucks and move the explosive agent through their country, the Khyber businessman said.

The businessman said he clears about \$950 a month smuggling ammonium nitrate. At least eight trucking firms on the outskirts of Peshawar regularly smuggle the substance into Afghanistan, he said.

Peshawar authorities have never raided his warehouse, he said. "There are only a few police officials in Peshawar who know what we do, and we bribe them."

Peshawar's top administrative official, Commissioner Azam Khan, said no Pakistani court had ever convicted anyone of smuggling ammonium nitrate into Afghanistan. He said he had begun meeting with law enforcement and other officials to find ways to tackle the smuggling of ammonium nitrate and other commodities into Afghanistan.

"We're trying to think out of the box," Khan said. "We're looking at what laws we can use to get at the black market storage of ammonium nitrate, to make it more difficult to store it in bulk."

Some security officials say Pakistan should have ample incentive to better scrutinize the movement of ammonium nitrate, given its own struggle with Islamic militants.

In March, police seized 6,600 pounds of ammonium nitrate stashed in a fruit market in Lahore's Allama Iqbal neighborhood. Investigators believe the three men arrested in the seizure were connected to a series of suicide attacks that killed more than 50 people in March.

Zulfiqar Hameed, a senior Lahore police official in charge of investigations, said his officers could have tracked down the middlemen who supplied the ammonium nitrate to the militants if Pakistan required manufacturers to put tracking numbers on each fertilizer bag.

"It's a totally undocumented market," Hameed said. "There's no reliable way of finding out who bought those bags. That's a huge problem."

Even if Pakistani authorities took steps to clamp down on ammonium nitrate smuggling, the Khyber businessman said he doubted they would derail his operation. Along Pakistan's tribal belt, where smuggling is a way of life, the policemen and officials accustomed to a steady stream of pay-offs aren't likely to turn over a new leaf anytime soon.

"Never have these supplies been interfered with," the businessman said, chuckling. "These shipments always reach their destination."

Mr. CASEY. Finally, let me also ask unanimous consent to have printed in the RECORD a summary of a "Report on Progress Toward Security and Stability in Afghanistan" issued by the Department of Defense dated April 2010.

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

REPORT ON PROGRESS TOWARD SECURITY AND STABILITY IN AFGHANISTAN
(Issued by the DOD, Apr. 2010)

The ANP consists of four major categories of police; the Afghan Uniformed Police (AUP), the Afghan Border Police (ABP), the Afghan National Civil Order Police (ANCOP) and Specialized Police.

In January 2010, the JCMB, the international community, and the U.S. Government agreed to the Afghan proposal to grow the ANP to 109,000 by October 2010 and 134,000 by October 2011. March goal: 99261. Actual: 102,138.

One of the major past weaknesses of the ANP program is the lack of centralized command and control for recruiting and training.

A major concern of the international community is the lack of personnel accountability in the ANP force. There have been accounts of "over-the-tashkil" police in various districts doing police work while not being paid through LOTF-A, as well as accounts of "ghost police" who are on the payroll but are not actually present for duty.

Training is a key challenge to building the capacity of the ANP. In recent years, because of the lack of program resourcing, 60-70% of the force was hired and deployed with no formal training (the "recruit-assign" model).

High levels of corruption persist in the ANP and reports of promotions being sold are common.

As with the ANA, the logistics systems in the ANP have been weak. Over the past year, the NTM-A has assisted the Logistics Training and Advisory Group in improving its logistics system to better meet the needs of the ANP. Despite progress, the MoI logistics system is in its early stages of development and lacks automation, infrastructure, and expertise.

Establishment of effective rule of law institutions is critical to the sustainment of an effective police force. To date, in the justice sector, there has been little enduring progress despite investment toward reform, infrastructure, and training. Courts are understaffed and chronically corrupt. Corruption can be stemmed by ensuring there are adequate salaries and an adequate number of defense attorneys, and by implementation of a case management system and court watch or court monitoring program. Security for judges and prosecutors continued to be a significant problem, especially in RC-South.

Mr. CASEY. Thank you, Mr. President.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. UDALL of Colorado. Mr. President, before I ask a unanimous consent on an amendment, I will comment on Senator CASEY's remarks that were just delivered so powerfully and eloquently. He is right on point that the efforts underway in Afghanistan are crucial to our country's national security.

It was important, as well, that he talked about the three main factors that are in play there in our ultimate success. This week, we had President Karzai and much of his Cabinet in Washington. I certainly appreciate the effort President Karzai made to show his respect for those who have fallen in Afghanistan in the war there. I also note General McChrystal was here briefing many of us. I think the Presiding Officer, as well, heard from him on the state of the situation in Afghanistan.

This isn't going to be easy. I am heartened by what I heard. I express my appreciation for the valor, commitment, and honor that our forces in Afghanistan have displayed.

AMENDMENT NO. 4016 TO AMENDMENT NO. 3739

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up my amendment No. 4016.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. UDALL], for himself, Mr. LUGAR, Mr. LAUTENBERG, Mr. BOND, and Mr. BEGICH, proposes an amendment numbered 4016 to amendment No. 3739.

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

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

The amendment is as follows:

(Purpose: To improve consumer notification of numerical credit scores used in certain lending transactions)

On page 1455, after line 25, insert the following:

SEC. 1077. USE OF CONSUMER REPORTS.

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following:

"(2) provide to the consumer written or electronic disclosure—

"(A) of a numerical credit score as defined in section 609(f)(2)(A) used by such person in taking any adverse action based in whole or in part on any information in a consumer report; and

"(B) of the information set forth in subparagraphs (B) through (E) of section 609(f)(1);"; and

(C) in paragraph (4) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (3)"; and

(2) in subsection (h)(5)—

(A) in subparagraph (C), by striking "and" and inserting a semicolon;

(B) in subparagraph (D), by striking the period and inserting "and"; and

(C) by inserting at the end the following:

"(E) include a statement informing the consumer of—

"(i) a numerical credit score as defined in section 609(f)(2)(A), used by such person in connection with the credit decision described in paragraph (1) based in whole or in part on any information in a consumer report; and

"(ii) the information set forth in subparagraphs (B) through (E) of section 609(f)(1).";

Mr. UDALL of Colorado. Mr. President, Senator LUGAR and I introduced this modified amendment in working with Senator DODD, the Treasury Department, and the Federal Reserve to find a way to increase Americans' access to their credit scores.

Before I talk about the amendment, the chairman of the committee, my friend and colleague from Connecticut, is on the floor. I thank him for working with me and a group of about 20 bipartisan Senators to provide greater access to consumer credit scores. Senator DODD had a thoughtful, incisive idea about how we might be able to move this amendment to the floor, and that was to provide a credit score on a transactional basis.

That is exactly what this amendment does. A credit score affects consumers' interest rates and monthly payments on home loans and can even influence a consumer's capacity to buy a car or rent an apartment, even get phone or Internet service.

Our amendment would take the two consumer notices that the Federal law requires lenders to give consumers and makes sure the credit score used to evaluate the consumer is disclosed to that individual.

Right now—and I found this out in the process of researching what we are trying to do—if you receive a general notice of your credit application being turned down or if you are offered credit at less favorable terms, you don't receive a disclosure of the credit score used to determine that outcome.

Under our amendment, if you are turned down for a loan or you are given a higher interest rate because of a low credit score, you now have the right to see the credit score that was used. I know of the Presiding Officer's interest and long experience in the world of housing and providing access to people in that way. I know this is something he has followed with great interest.

There is a fundamental principle at stake. If your credit score is being used against you, you ought to have the right to at least see it.

I know every single American would want to improve that credit score and understand how they could have a greater financial opportunity, greater financial standing.

I thank Chairman DODD and Senators LUGAR, LEVIN, BOND, SCOTT BROWN, SCHUMER, BEGICH, LAUTENBERG, and all the 20-plus Senators who helped push for this important issue.

I especially thank Senator PRYOR for working with us to find something everyone could agree to in this modified version. I am appreciative that we were able to work it out.

I understand that the amendment is scheduled to be addressed Monday night. I hope we can perhaps accept it on a voice vote at the proper time as well.

With that, I yield the floor.

Mr. DODD. Mr. President, again, I cannot thank our friend and colleague from Colorado enough. He has done a great job. This is a terrific idea—one that is long overdue. The Presiding Officer is a member of our Banking Committee. We have talked a lot about these issues over the last couple years. We have had hearings and, in fact, legislation dealing with credit scores. A lot of people have had their good names stolen from them, in a sense, as a result of the thievery that goes on with credit cards and the like, and people's credit scores have been manipulated.

It is difficult to find out where you are in all this. It is ironic that we are citizens in our country, and other people are determining whether we are creditworthy when we are buying an automobile, purchasing a home or getting a student loan. The idea that we

as consumers cannot have access to these scores that people are writing about us—it is kind of offensive that we even have to go through this. It is degrading, to put it mildly. I am grateful to the Senator from Colorado for pursuing this. He would have gone a bit further. I would have, too, but I sense we are going to have a problem here to get anything done at all. The fact that are going to have this on a transactional basis is a major step forward and may alleviate 80 to 90 percent of the difficulties. That is not to say there isn't room for further improvement down the road. There will be other steps we can take in the future to make sure people have access to their scores and where they stand on their ability to afford the things they need as a family.

The Senator from Colorado has made a significant contribution. We are going to have to vote on it. I am confident we can prevail. I believe both Democrats and Republicans share the concerns the Senator has raised. He has made a valuable contribution to this effort. I thank the Senator personally for that.

I look forward to being supportive of this amendment early next week. I thank the Senator.

Mr. UDALL of Colorado. Let me again thank the chairman of the Banking Committee for his willingness to work with those of us in a bipartisan coalition. His comments are right on point, as always.

I think the Senator from Connecticut is right when he suggests that, as Americans have access to credit scores, they are going to be more interested, as time goes on, in understanding how to build and strengthen that score and be more financially literate, if you will.

The chairman has been remarkable in the time he has spent on the floor and the strength he has shown, with the lack of sleep he has endured. His product, which many of us have contributed to, will be seen by historians as a seminal moment, when we put Wall Street on a more accountable basis.

Under the chairman's leadership, we have also given consumers more recourse and access. In the end, I think that is what the chairman wanted to do, and will do, to protect consumers all over our great Nation. This is one small but important way to do that.

Again, I thank the chairman and look forward to the vote on Monday night. I agree this will have widespread support. I will continue to ask for those votes, and I know we will work to have a successful outcome Monday.

Mr. LEVIN. Mr. President, I am pleased to cosponsor amendment No. 4016, introduced by Senator MARK UDALL and Senator LUGAR, to help provide Americans access to their credit score, an essential piece of personal financial information.

The way things stand now, the three primary credit bureaus charge people

to gain access to their credit scores. Seven years ago, the 2003 Fair and Accurate Credit Transactions Act took a big step in the right direction by giving Americans access to their credit report once a year, on a no-cost, no-strings-attached basis, at each of the big three credit bureaus. But a credit report only goes so far. It is the credit score itself, not the report, that is so critical to the consumer when navigating our financial system, and free access to credit scores was not included in the 2003 act.

Credit score is often the single most important factor in obtaining a loan to buy a car or a house or in securing a credit card with a reasonable rate of interest. Credit scores can also play a key role in finding an apartment or purchasing a major household appliance. More and more, credit scores are also used by employers in the hiring process.

With so much riding on this number, it is essential that Americans be able to readily obtain their credit score, so they can evaluate whether it accurately reflects their credit risk. If the score is low, a consumer can evaluate the underlying credit information to see if there is an error in the data and what, if anything, they should do to correct an error. Consumers can also evaluate what steps they can take to improve their credit score by, for example, paying off debt or tearing up a credit card. To make those types of informed decisions, however, it is only fair for the consumer to know what all their creditors know—the credit score that has been electronically assigned to them by an impersonal, computer-driven credit bureau.

A credit score is calculated from a person's personal financial history as that history is captured in specific data points included in a credit report. We already know that the data in a credit report is often incomplete, out of date, or incorrect. We also know that the formulas used to produce credit scores from that data are complex, unpublished, and of uncertain predictive value.

The credit bureaus chum out profits by running people's personal financial information through their formulas. Then they sell the information to financial institutions, marketing companies, landlords, and others. The companies then turn around and sell the credit scores back to the consumers who otherwise can't find out what is being sent to multiple third parties about their credit status, without their ever having been informed about the score.

This whole setup is unfair. While credit scores serve a useful function in our financial system, fundamental fairness requires that people have ready access to this basic information about themselves—information that is already being sold to their bank, their landlord, their employer, their government, and any other creditor willing to pay for it.

One more point. Right now, despite the efforts of Congress and the Federal

Trade Commission, some credit bureaus continue to engage in deceptive advertising of ostensibly “free” credit reports and scores that, in fact, require enrollment in a subscription credit monitoring service that charges a monthly fee, often \$15. It is astonishing to me that some bureaus fight tooth and nail to avoid straightforward disclosures about the cost of their products and instead try to slip them in with deceptive offers of “free” credit scores or reports that are anything but. This is an issue we addressed in the credit card reform bill with new provisions to stop the deceptive advertising, and which the FTC is now working to implement. The credit bureaus have got to clean up their act.

What we can do today is pass the Udall-Lugar amendment, which would require that every time a consumer suffers an adverse event—such as a rejected loan—or receives materially less favorable terms—such as a high interest rate on a credit card—due to the consumer’s credit score, the lender or potential lender would have to provide that credit score to the consumer. This requirement would enable people to find out what the credit bureaus are telling their creditors about their credit risk, whenever that information is used against them.

This amendment would help Americans take control of their credit histories, help restore fairness in the credit industry, and begin to close a gaping loophole that the credit bureaus have been exploiting for years. I commend Senator UDALL for his leadership on this issue and encourage my colleagues to vote for it.

Mr. DODD. Mr. President, I support the amendment offered by Senator COLLINS, amendment No. 3879, and thank the Senator from Maine for her efforts to protect the financial stability of the United States and safeguard the financial security of families in her State of Maine, my State of Connecticut, and all across America. Her amendment complements the provisions in my bill, S. 3217, that strengthen capital standards for large, interconnected financial companies. Under S. 3217, the Federal Reserve must impose heightened standards for leverage and risk-based capital on large bank holding companies and on nonbank financial companies supervised by the Federal Reserve. These tougher standards will serve as speed bumps to keep financial companies from growing too large and risky and threatening the nation’s financial stability.

The Collins amendment, endorsed by FDIC Chairman Sheila Bair, would prevent regulators from weakening risk-based capital and leverage standards now in effect. It effectively sets a floor for such standards going forward that would apply to all banks, bank holding companies, and nonbank financial companies supervised by the Federal Reserve. The Collins amendment also reinforces the bill’s requirement that capital for large, interconnected finan-

cial companies should reflect the risks that their failure may pose to financial stability.

As Chairman Bair noted, bank holding companies are supposed to serve as a source of strength for the banks they own. But during the financial crisis, many large bank holding companies became a source of weakness and ultimately required Federal support. The crisis also revealed how dangerously overleveraged many large investment banks and other nonbank financial companies were. The Collins amendment and provisions of S. 3217 will help to ensure that the largest, most interconnected financial companies maintain a robust level of capital and to eliminate gaps in capital standards between banks and other financial companies that could undermine the financial stability of the United States.

Again, I thank my colleague from Maine, Senator COLLINS, for her valuable contribution to the collective, bipartisan effort here in the United States Senate to reform Wall Street and protect American families.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, I want to share some thoughts, if I can for a couple of minutes, on one of the proposals that will be coming up, I think, next week on the bill.

Again, I want to express my gratitude to all of our colleagues for the way in which this debate has been conducted. Contrary to what many people may think about the Senate, we are capable of having a full-throated debate, one filled with emotion and passion about strongly held views, and yet also respect each other to allow for the debate to go forward and amendments to be considered and voted up and down.

I think we have done that now some 33 or 34 times over the last 6 or 7 legislative days. I know there is much more to be done in the coming days before we conclude our consideration of the Wall Street reform bill. But it is a reflection of how this institution can operate and how we should operate, in my view, on a matter of this import.

So it is not only important about what we are doing in terms of reforming the financial system of our Nation, but I would argue in a way history may never record it as such, but also how we conducted this debate on an important issue. It may not make the headlines, but it is very important for the integrity of this institution and as a model for how important comprehensive legislation can be handled.

I know it is cumbersome. I know it can take a long time. There are delays

that occur during consideration of matters in the Senate. But that is as it was intended by our forefathers, in a sense, to have an institution where there would be the ample opportunity for debate, including unlimited debate by any one single Member, contrary to the other Chamber that comprises the Congress where they are limited to 5 minutes, and the majority rules allow for matters and insists upon the majority prevailing.

In this institution the rules favor the minority, including a minority of one that can engage in extended debate. So we are different in this institution and with good reason. If they had wanted a unicameral system of one body, where just majority rules would prevail every time, they would have created it. In fact, they tried to.

But I take some pride in the fact that it was two Senators from Connecticut, Oliver Ellsworth and Roger Sherman, who in the consideration of the Constitutional Convention—when all was about to fail over a contest between large States and small States; they were fearful that large States, having the dominant number of members in the Halls of Congress, would be overwhelmed and their interests be disregarded because they did not have the votes to counter it—so Oliver Ellsworth and Roger Sherman came up with the idea of creating a bicameral system, one wherein one body’s membership would be made up based on population, the size of the State, the number of seats it would hold, and this body, regardless of our size, would have equal representation.

So the smallest of our States, States such as Wyoming with a few hundred thousand people, has two Senators. The State of California, with millions of people, has two Senators. So regardless of size, regardless of economic influence or other matters, we are all co-equals, at least as far as our States are represented and the opportunity as well for minority voices to be heard, not overwhelmed with the tyranny of the majority which can happen.

So there is a value to the existence of the Senate, and we are slower to act. It can be frustrating, as my colleague and Presiding Officer has come to appreciate, and as a former Speaker of his own State legislative body, I know he appreciates how difficult that can be as a leader in trying to move business and product along so that matters can be considered.

So I say all of that as a backdrop because in recent years, recent months, in fact, we have been bogged down, frustrated. There has been a lot of obstructionism that has gone on to prohibit us to move forward on important matters. But at least in this case, up to now at this point anyway, we have conducted this debate on financial reform in a way that I think our forbearers would have appreciated.

Members have had ample opportunity. The rules are still there for them to use to make sure they can be

heard in these matters. But, again, I emphasize that while the subject matter of our consideration certainly is tremendously important, the means and the manner by which we have conducted debate also has value.

It is with that backdrop that I want to again thank my colleagues, Democrats and Republicans. I thank majority leader HARRY REID because without his insistence as the leader, this could not happen. I think the fact that he has demonstrated as a leader the ability to move this institution in a way that allows for equal participation and debate is a great tribute to the leadership he has demonstrated as majority leader of the Senate over many years now.

This morning I would like to concentrate, if I could, on one subject matter, as I mentioned, that will probably come up in the next few days when we reconvene at the first part of next week. That has to do with a very important part of this bill, one in which the Presiding Officer has demonstrated great interest, and I have a tremendous amount of interest in as well.

It deals with the issue of establishing, for the first time in our Nation's history, an actual bureau, a division, that is designed specifically to protect individual consumers from what can happen to them when financial matters put them in a desperate condition, whether it be on credit cards, home sales, all sorts of other financial activities. There has been no place that actually consumers' interests are paramount.

There are seven agencies in the Federal Government that have divisions that deal with consumer protection. But the history has been one of either malfeasance, inaction, uninterest or lack of interest. What we are creating is a place where the dominant principal, sole interest will be to watch for consumer interests.

One of the debates we are going to have is whether a major area of financial interest will be exempted from the consideration of the Consumer Financial Protection Bureau, and that is in the area of financing an automobile.

I know this has been one of the most heavily lobbied parts of the whole Wall Street reform bill. I certainly understand that many of us know our auto dealers back home make important contributions to our communities. I said in my remarks the other day, I have worked very closely with the car dealers of my State over recent past years and months.

We have had major debates about the automobile industry and the rights of auto dealers, the cash for clunkers bill, to try to increase sales, which is something I was deeply involved in to try to make it possible for our automobile dealers and manufacturers to get back on their feet.

So I take a back seat to no one in my concern and care about the work they do, the economic vitality they provide for our community, the jobs that get created as a result of their efforts. My

debate and argument is not with the auto dealers; it is over the financing of automobiles and how that occurs, and whether consumers are going to be protected in what for most Americans is the second largest purchase any of us ever make.

Our home, if we have one, is the most important. Then, secondly, is the purchase of an automobile. Most Americans, other than having a 401(k) for retirement, do not deal with the stockbrokers every day, are not buying or trading or engaging in sophisticated financial instruments. That is limited to a few of the 300 million in our population.

But you only need to get up in the morning and head off to work, and you know that everybody needs an automobile—one might argue maybe too many. But, nonetheless, that is a separate debate. So that purchase of an automobile is critically important to people. It is a critical part of our economy.

But it is over the financing of automobiles, in certain areas, that I have great concern and do not want to see consumers disadvantaged. So it is in that spirit that my support and admiration for people who work in that sector of our economy, to say to you today that those responsible corporate citizens, small businesses, have nothing to fear from this legislation whatsoever.

They conduct their business admirably, ethically, morally. They treat their customers as if they were members of their family. That is the overwhelming majority of people who engage in the sale of automobiles. But like all statutes and laws, they are not designed necessarily for the majority of people who operate within the law and act and operate ethically and morally.

We also understand there are those who take advantage of people, and so we craft legislation to protect all of us against those abuses that can occur. As President Obama said on April 22:

Unless your business model depends on bilking people, there is little to fear with this legislation at all.

In fact, there is nothing to fear. In a challenge to this Congress, Michael Hayden, from the Military Officers Association of America, said to us the following:

You have an opportunity to do something about unscrupulous auto dealers. The above-board firms should not have a problem with the Consumer Financial Product Protection Bureau.

They should not, and let me explain why briefly this morning. First, the Wall Street reform legislation as being considered by the Senate has gone more than halfway to meet the concerns originally raised by financing of automobiles. The bill, and let me enumerate, eliminates assessments on the auto dealers. Unlike other financial institutions, there are no assessments on auto dealers.

The Brownback amendment would prohibit assessments. The underlying

bill already does that. There is no reason for that provision in the amendment of my colleague from Kansas. The bill further eliminates the authority of the bureau of financial protection to examine and enforce new rules on auto dealers.

State authorities and the Federal Trade Commission will continue as they have to perform this role. Thirdly, as a result of our bill, the only impact the consumer bureau will have on auto dealers is through rule writing. It is crucial that auto dealers, in the financing of autos, play by the same rules as their competitors do in communities all across our country.

One has to ask: What could be more reasonable than that? There are a variety of places people can go to finance an automobile. You can go to a credit union; you can go to your community bank. There may be other means by which you can finance. Why should we disadvantage those institutions in a community at the expense of one other who is seeking exemption from these rules?

That brings me to the second point. The legislation we have written creates a level playing field among auto dealers, community banks, credit unions, and others. This will empower consumers to shop effectively for the best financing available as they see it. They ought to have that opportunity, not fearing that if they go to one financial service provider or another, the rules apply in one case and do not in another. That disadvantages all consumers in this country who want to be able to shop effectively.

How many times have we seen that ad: When providers of financial services have to compete, consumers win? If they have to compete on a level playing field, then we are going to make it possible for people to get the best value that is available to them.

Consumers should be treated the same regardless of whether they get a loan from an auto dealer, a credit union, a community bank, or anyone else for that matter who is engaged in the financial products and service industry.

Community banks and credit unions should not be forced to live under more stringent rules for making auto loans than do auto dealers. Just imagine, in small communities, where on the same street you might have a community bank, a credit union, and an automobile dealer that is financing automobiles.

Why should there be a disparity in terms of the protections consumers get depending upon which door they walk through on that Main Street: walk into the credit union, walk into the community bank, or walk into the auto dealer who is financing. Why should that last place be treated differently than the other two when it comes to financing?

That is at the heart of what our bill is trying to do. That is what makes it especially important that car salesmen follow the same rules and provide customers with clear, transparent, easy-

to-understand information, so those consumers, those who are also our neighbors, are empowered to make smart financial choices for themselves and their families without having to worry about hidden markups that can cost them hundreds of dollars over the course of paying off a loan.

Let me emphasize again what I said at the outset. The overwhelming majority of auto dealers play by the rules. Again, I am not talking about the vast majority that do this but the unscrupulous ones, those who engage in ripping off people and are doing everything they can to get away with it.

That is what the legislation is designed to deal with. This is the way the marketplace is supposed to work, where people can shop fairly, knowing the rules apply to everyone equally, and there is competition to provide higher quality products and services and better prices.

A strong consumer bureau will be good for responsible auto dealers as well. If the Brownback amendment wins, Wall Street wins, and those responsible dealers will lose. Let me explain why this is true.

If auto dealers are carved out of this bill, as the Brownback amendment would do, it means we are essentially exempting Wall Street-funded auto dealers and putting credit unions and community banks at a disadvantage. It means Wall Street will continue to incentivize auto dealers to offer bad, overpriced loans that make it impossible for responsible dealers to compete. We have seen this time and time again in every market. The bad money pushes out the good money. The responsible players who play by the rules are undercut by the sharp dealers who cut corners.

Furthermore, a strong consumer bureau will restore America's faith in auto dealers and the loans they make. Responsible auto dealers ought to welcome this. What happens when we have this kind of uneven playing field? Unfortunately, we have seen many cases where people, particularly those serving in the military, have been the victims of shady auto dealers' financing practices. Let me share some of the many stories I have heard, and I know my colleagues have as well.

A recent news story describes five young men and women in uniform at Fort Riley, KS who were conned into paying for phantom options on vehicles they bought from a local auto dealer. In other words, they were charged for options on their cars they never received. According to their lawyer, despite having decent credit scores, these young men and women in uniform were ending up paying interest on their car loans averaging almost 18 percent.

Yesterday I told a story that appeared in the New York Times of Matthew Garcia, a 25-year-old Army specialist who was recently subjected to a trick called "yo-yo financing" by an unscrupulous car dealer, just as he was preparing to deploy to Afghanistan.

Specialist Garcia, stationed at Fort Hood, TX, bought an automobile at a used car lot and signed up for a loan at 19.9 percent interest rate. That is not even the biggest abuse, however, believe it or not. The problem came when he drove the car home. The auto dealer called him up several days later to say the financing contract had actually fallen through and demanded an additional \$2,500 in cash. To make sure he paid up, the dealer blocked the soldier's car so he could not leave.

In North Carolina, SGT Diann Traina, who works in military intelligence/psychology, purchased a used BMW from a dealership near Fort Bragg. The dealer who sold Sergeant Traina the car never provided her with the registration and, in fact, did not have title to the car. Sergeant Traina got to drive the BMW for 1 week before she was deployed to Iraq. Then it was repossessed. Through no fault of her own, she now has a repossession on her credit rating, her credit. In addition, the lender insists she has to pay \$10,800 that is still owed on the car. She is married. She and her spouse have been without the use of a vehicle for a long time but are still being pressured to pay for it. Sergeant Traina later learned that the dealer where she brought her automobile had sold numerous cars to military personnel, even though it didn't own them. The North Carolina Attorney General eventually sued the dealership, and it has subsequently gone out of business.

This story is a classic example of predatory auto lending, where the dealer is clearly culpable and the military member had no way of knowing in advance that the dealer was selling automobiles and originating loans for vehicles it did not own. This type of practice is actually fairly common among unscrupulous auto dealers who finance, particularly, around military bases. Some go in and out of business repeatedly, reopening under different names each time, leaving many customers in the lurch. Regrettably, this kind of abuse of lending to members of the military and their families is far too common.

Holly Petraeus, who directs a better business program for military families, noted at a press conference yesterday that auto lending to the military needs oversight, because:

Sadly, many of [those in the military] end up paying far more for those cars than they should.

That is why The Military Coalition, a consortium of over 30 nationally prominent military and veterans organizations representing more than 5.5 million current and former servicemembers and their families, opposes the Brownback amendment. We talk all the time about protecting and defending and standing up for our men and women in uniform, many of whom are in Iraq and Afghanistan in harm's way. Yet we are about to pass legislation that would exempt automobile financing dealers from the very people

we try to protect. I am not making up these quotes and these numbers. When we have that many organizations expressing their opposition to this amendment, Members ought to take note. Again, I emphasize—I know my language here is talking about auto dealers in a generic way. I emphasize over and over, the overwhelming majority do a good job, a fair job, an ethical and moral job, but they would tell us themselves how they can be disadvantaged by those unscrupulous dealers who take advantage, particularly of the young men and women in the military.

The coalition includes such groups as the Veterans of Foreign Wars, the National Guard Association, Military Officers Association, the Military Order of the Purple Heart, and many others which oppose the Brownback amendment. I am taking advantage of this time today to tell my colleagues, please pay attention to this. I know we care about our auto dealers. I know they have been lobbying heavily. But they should not receive an exemption in the financing area that can put so many people at a disadvantage.

The coalition, in fact, sent me a letter. I wish to read a little from the letter. I quote:

The most significant financial obligation for the majority of servicemembers is auto financing. Including the auto dealer financing . . . in the financial reform bill will provide greater protections for our servicemembers and their families.

The letter goes on:

Providing a carve-out for auto dealers does just the opposite—it will allow unscrupulous dealers to continue to take advantage of servicemembers and their families.

Clifford Stanley, Under Secretary of Defense, said in a letter to the assistant Secretary of the Treasury Michael Barr that the Department of Defense "would welcome and encourage the [Consumer Financial Protection Bureau] protections provided to Servicemembers and their families with regard to unscrupulous automobile . . . financing practice."

Secretary Stanley cites the "bait and switch" financing, falsification of loan applications, failure to pay off liens on trade-in vehicles, "packing" loans with items whose price bears little if any relationship to the real cost, and discriminatory lending as the kinds of problems members of our Armed Forces and their families face when dealing with financing their automobiles with car dealers. In fact, Secretary Stanley reports that 72 percent of counselors and attorneys surveyed have cited problems with auto dealer abuses in the past 6 months alone.

This is not my list of abuses. This is the Under Secretary of Defense in a letter.

Two days ago Senator JACK REED and Senator SCOTT BROWN of Massachusetts offered an amendment to create an office of military liaison within the consumer protection bureau. That amendment carried 98 to 1. Only one colleague voted against providing an office within the Consumer Financial

Protection Bureau with the kind of protections the Secretary of Defense is talking about in his letter.

The amendment carried by a vote of 98 to 1 because Members recognize that our service men and women deserve protection from these shady financial service providers, including, of course, the major abuser, the very group that our colleague from Kansas wants to exempt from this legislation.

A crucial part of providing this protection is coverage of auto dealers. Yesterday I received a letter from the Secretary of the Army John McHugh. Secretary McHugh makes the point that auto dealers are often “the most significant financial obligations of our soldiers—particularly within the junior enlisted grades . . .”

If we carve out auto dealers—the businesses that make the loans that are “the most significant financial obligations of our soldiers,” in the words of the Secretary of the Army—why did we vote to create the military liaison office in the first place?

If we pass the Brownback amendment and carve it out of our legislation, we will have gutted the very office of military liaison before it even gets off the ground.

Yesterday the Senator from Kansas made the point that we ought to regulate the people who are making the loans, not simply the people who are processing the paperwork. I agree. By that standard, we should defeat the Brownback amendment because, in fact, the auto dealers are the legal lenders. It isn't the financing company. The legal lender is the automobile dealer who engages in financing of automobiles. Auto dealers finance cars in much the same way mortgage brokers and bankers finance mortgages. They shop among a number of wholesale lenders, often on Wall Street, and they steer buyers into higher interest rates than those borrowers would otherwise qualify for. In exchange, the auto dealers who get this kind of financing get the equivalent of a yield spread premium or a backend payment. The higher the interest rate they can get the borrower to agree to, particularly service men and women, the higher the payment the auto dealer receives from the Wall Street financing firm.

The incentive is to get the customer to pay as much as possible. That is the way they get rewarded financially. This is not the way the market should work, whether it is for a young soldier, a first responder, or a single mother working hard to raise her family.

Let me read the court testimony of a former auto dealer finance and insurance manager from Tennessee about how the process works. Again, this is a former auto dealer finance and insurance manager in court testimony. I am quoting:

The standard industry practice is to prepare financing documents so that the customer is not alerted in any manner that the person with whom he is dealing has the ability to control the customer's price of credit.

Let me explain that. The dealer “has the ability to control the customer's price of credit.”

He continues:

This allows the finance arranger to present himself as the ally of the customer, which further relaxes and disarms the customer. . . . The nature of the transaction creates the perfect opportunity for a dealer to obtain a large kickback from an unsuspecting customer by subjectively inflating the interest rates.

What better evidence could we have than someone in court testimony engaged in the very business telling us exactly how it operates? Again, the Brownback amendment would basically exempt that person from the rules of consumer financial bureau. What does this remind us of? It reminds me exactly of the mortgage broker I described a few days ago, who is taught and encouraged in training sessions to convince the borrower that he is their financial adviser while profiting from steering the customer into the more expensive loans.

Let me go back and read the quote from the witness, the former auto dealer finance manager:

This allows the finance arranger to present himself as the ally of the customer. . . .

Tell me what difference there is between that and the unscrupulous broker who tries to convince a borrower that “I am your financial adviser”? It is exactly the same kind of abuse. So the mortgage broker, without any regulations, gets away with it. If we adopt this amendment, it will allow the automobile finance dealer to get away with it as well. We ought not to allow that to happen in this legislation.

Moreover, there is a history of discrimination in auto dealer financing. For example, African-American borrowers were charged more than 2.5 times the amount in subjective rate markups compared to majority White populations, after controlling for creditworthiness. And similar disparities were found for Hispanics. These abuses have been curbed temporarily as a result of a series of court orders and consent decrees. However, these consent decrees expire, and they will shortly.

Finally, the Brownback amendment is simply unworkable and would create a duplicative bureaucracy. The amendment leaves rule writing under the Truth in Lending Act with the Federal Reserve for auto dealers loans only. All other Truth in Lending Act rules will be written by the consumer bureau. That means the Fed will have to maintain a separate bureaucracy to write rules for this one sector of the lending industry—not the legal, responsible entity, the auto dealer—while the consumer bureau writes the Truth in Lending Act rules for everyone else.

Frankly, that makes no sense whatsoever. One of the things we are trying to do is to get rid of unnecessary burdensome paperwork and duplication.

Several weeks ago, when the debate on this Wall Street reform bill first

started, I told my colleagues about the Luntz memo, which lays out a strategy for attacking real Wall Street reform. Well, let me read to my colleagues one thing from the Luntz memo I happen to agree with, and it is the following—I quote from the memo:

The public is angriest about lobbyist loopholes. Part of the perception that Washington cannot do anything right is the belief that lobbyists write most of the bills. The American people are tired of add-ons, earmarks, and backroom deals—but they are mad as hell at “lobbyist loopholes.”

What is one of the loopholes that Mr. Luntz's memo refers to specifically? Car dealers—the very lobbyist loophole the Brownback amendment would create. The memo, in fact, warns specifically about this amendment we may be asked to vote on because it has been so heavily lobbied by those who would take advantage, unfortunately, of people.

Finally, I would like to read to my colleagues a statement on this amendment that the White House released yesterday from the President of the United States. The President says:

Throughout the debate on Wall Street reform, I have urged members of the Senate to fight the efforts of special interests and their lobbyists to weaken consumer protections. An amendment that the Senate will soon consider would do exactly that, undermining strong consumer protections with a special loophole for auto dealer-lenders. This amendment would carve out a special exemption for these lenders that would allow them to inflate rates, insert hidden fees into the fine print of paperwork, and include expensive add-ons that catch purchasers by surprise. This amendment guts provisions that empower consumers with clear information that allows them to make the financial decisions that work best for them and simply encourages misleading sales tactics that hurt American consumers. Unfortunately, countless families—particularly military families—have been the target of these deceptive practices.

Claims by opponents of reform that this legislation unfairly targets auto dealers are simply mistaken. The fact is, auto dealer-lenders make nearly 80 percent of the automobile loans in our country, and these lenders should be subject to the same standards as any local or community bank that provides loans. Auto dealer-lenders offering transparent and fair financing products to their customers should welcome these reforms, which will make their competitors who don't play by the rules compete on a level playing field.

The President concludes by saying:

We simply cannot let lobbyist-inspired loopholes and special carve-outs weaken real reform that will empower American families. I urge the Senate to continue to defeat the efforts of special interests to weaken protections for all American consumers.

I further note that while I have emphasized what happens among the 5.5 million of our service men and women and how they are treated in overwhelming cases and that I do not recall another time the Department of Defense and military organizations have gotten involved in a debate such as this—normally, they get involved in debates involving the armed services of our Nation, national security issues,

but the fact that they have gone out of their way to communicate to me and every other Member of this body about their concerns over the Brownback amendment ought to set off alarm bells to each and every one of us. Rare is it, indeed, when the Secretary of the Army or the Secretary of Defense or military associations, such as the Veterans of Foreign Wars and others, write to Members of Congress about something such as this. Yet they feel so strongly about it that they are urging us not to succumb to the temptations of carving out this second most important financial arrangement that most Americans ever engage in: the purchase of the automobiles they need.

I would also point out that among the Better Business Bureau statistics, the single largest number of complaints—and the number hovers around 70 percent nationwide—aside from the military side, come in the area of automobile dealer financing arrangements; that is, almost 75 percent of all complaints are in this one area. What more information do you need to have about whether we ought to keep this section of the bill intact to make sure they are not going to be exempt from these kinds of activities?

So when the amendment comes up, I will speak further about this. But I wished to remind my colleagues particularly of the information we are receiving from our military organizations, from the military at the Pentagon, and others about how important this issue is.

I noticed the other day there were votes in the other body to increase the pay of our military men and women and I applaud that and agree with that. We have taken steps. JIM WEBB, our colleague from Virginia, recently got passed a bill of rights for our veterans, which we all applauded and supported.

As I said, the other day JACK REED and SCOTT BROWN of Massachusetts, by a vote of 98 to 1, got passed an amendment that creates within this bureau the only special section of this bureau designated to protect a class of our citizenry—one designed to protect our men and women in uniform. It is the only one. We do not have a section for the elderly or for students or for anyone else. The only class we protected by a vote of 98 to 1 is our military.

For, particularly, our junior age military, they do not own homes yet. They are too young. They are 18-, 19-, 20-, 21-year-olds. Their largest purchase is in the automobile area. What an irony it would be to have adopted an amendment to create a special division within the consumer protection area to protect our men and women in uniform—we are told by the Defense Department the single largest area of abuse of these young men and women is in automobile financing—and yet we are about, next week, to exempt it from this bill.

I cannot believe that will happen. I am hopeful my colleagues, as much as we respect our friend from Kansas—and

I do. Senator BROWNBACK and I are very good friends. We work together. In fact, on several provisions of the bill, he and I support the same ideas. But on this one, I passionately disagree with what he is trying to do. I think it is a carve-out. It is a loophole.

There are 1,000 lobbyists in this town doing everything they can to gut one provision after another in this bill. Millions of dollars are being paid for them to walk the halls of these buildings to do everything they can to gut this kind of legislation. What a tragedy it would be that on the cusp of adopting this legislation, for the first time establishing a national Consumer Financial Protection Bureau in our Nation, that we would carve out an area that affects the very young people who are sitting in harm's way in Afghanistan, Iraq, and elsewhere around the world. My hope is we would not let that happen.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, this is not a unanimous consent request I am making, but just based on the conversations we have had between the majority and the minority in preparation for votes next week—I know Members will be interested about possible votes—there will be votes, we are hoping and planning, on Monday evening, I think it is fair to say, at sometime around 5:30 p.m.

At least the amendments I think we can have some votes on Monday evening involve the amendment of Senator UDALL of Colorado, dealing with credit scores; the amendment of Senator CORNYN of Texas, dealing with the International Monetary Fund, the IMF; the amendment of Senator ROCKEFELLER and Senator HUTCHISON, dealing with the Federal Trade Commission; the amendment of Senator BOND, Senator WARNER, and myself, dealing with angel investors as well.

Those are four amendments we may have recorded votes on. Some may be voice votes, but those are four we think we can have votes on, on Monday evening. So we are planning to have votes.

MORNING BUSINESS

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

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

HONORING OUR ARMED FORCES

COLORADO'S HEROES

Mr. UDALL of Colorado. Mr. President, I rise today to pay tribute to our wounded warriors. This week at the Olympic Training Center in Colorado Springs, more than 200 wounded warriors from every branch of the military are competing in the inaugural Warrior Games. This event is the brainchild of Brigadier General Cheek, with whom I spent the day at Fort Carson last week visiting the Warrior Transition Unit there.

These soldiers do so much in defense of our country, yet we are not often in a position to cheer their performance. This week, we can. Although I am not able to be in Colorado to cheer them myself, I wanted to cheer them on here, from the Senate floor.

These games are a partnership between the Department of Defense, the U.S. Paralympics, and other organizations that are working together to give our wounded warriors an opportunity to push themselves, set goals, and demonstrate their abilities. The Army sent 100 competitors—chosen out of a pool of almost 9,000 wounded warriors—the Marine Corps sent 50, the Air Force 25, and the Navy and Coast Guard 25 combined. These military members and veterans have physical injuries as well as mental wounds of war, and they are competing in swimming, cycling, wheelchair basketball, archery, track, and sitting volleyball, among other events.

This week's Warrior Games is about the abilities of these warriors, not their disabilities. And it is about goal-setting, which can expedite the recovery process.

This mindset is important for all our wounded warriors, not just those competing in the Games this week. General Cheek has said that "While we've made enormous progress in all the military services in our warrior care . . . it's not enough. . . . What we have to do with our servicemembers is inspire them to reach for and achieve a rich and productive future, to defeat their illness or injury to maximize their abilities and know that they can have a rich and fulfilling life beyond what has happened to them in service to their nation."

I agree with General Cheek and believe that today the Army is working hard to help our wounded warriors in their difficult transition back to service or to life in the civilian world. But the Army acknowledges that it has faced some serious challenges when it comes to caring for our injured troops, especially those who have experienced brain injuries and psychological wounds. While I have seen real improvements in the quality of care, I also know that many of those same challenges still exist.

After my visit to the Warrior Transition Unit at Fort Carson last week, I am especially concerned about reports of overmedication and substance abuse among injured service members and