

We cannot wait to find out what is going to happen. We cannot wait to pay claims after damages have already been incurred by the people of Florida. Florida is reliant upon the beauty of its State for its economy. We have actually more than 80 million tourists who come to Florida each year, more than a \$65 billion tourism industry. Recreational saltwater fishing has a \$5 billion impact on Florida and is responsible for more than 50,000 jobs. Recreational boating has an \$18 billion impact. We have more registered boaters in Florida than any other State in the Union. Some 90 percent of Florida's population lives within 10 miles of its coast. We are the State, besides Alaska, with the largest coastline and more beaches than any other State.

There have been a lot of problems here. One, why did this spill happen; the failure of regulation by the Department of the Interior, the lack of a quick response by this administration, and a lack of a quick response by British Petroleum, mistakes being made at the scene; why did the blowout preventers fail, all the other things we have read about and heard about. We are having hearings in Congress on what caused this tragic incident to happen in the first place.

We are going to get to the bottom of all those things. Right now we need dollars in the hands of our States in the gulf, to get together our volunteers, our businesses, our local governments, county, city, and State, to try to prevent this oil from coming ashore. We need a flotilla of Florida boaters out there trying to scoop up these tar balls before they come ashore.

We need a volunteer effort not unlike what we had in World War II in Europe, where the British came to Dunkirk and rescued the military and brought them ashore when they were fleeing. We need to get the Florida volunteers, senior citizens and others, on the beaches getting ready to help mitigate this damage that I think, unfortunately, is going to come ashore.

We need the funds to do that today. We do not need them a month from now. We do not need them 6 months from now. We do not need them a year from now to pay claims. We need to do everything possible to keep that oil from coming ashore. If we do that, we can keep our economy, our tourism economy strong. Right now, people need to know they should still be coming to Florida to fish, still be coming to Florida for a beach vacation because the oil has not washed upon the shore in west Florida, on the panhandle, and we only have these 20 tar balls in the Keys. Let's hope that is the end of it.

I did not want to miss this opportunity to come to the floor to make the point again that we need to make sure the money comes now. Senator VITTER and I and others have filed legislation to make sure oil companies are responsible well beyond the \$75 million cap for damages to communities that are impacted by these oil spills. It is fo-

cused on profits, more than it is focused on a \$10 billion cap, which is a proposal that my friends and colleagues have proposed.

Why does it make more sense? Well, based on profits, we know BP may be liable for up to as much as \$20 billion for this incident. That is more money to help pay for this. Second, if you just put it on \$10 billion, we are only going to have two or three oil companies in this country because no other oil company will be able to get into the business because they will not be able to afford the potential \$10 billion cap.

If you do not have enough money to pay for it, \$10 billion is pretty illusory anyway. What we need to be focused on is making sure those responsible can pay and pay enough to make sure we solve the problem. A lot needs to be done.

A lot of questions need to be asked. A lot of answers need to be forthcoming. But right now we need the dollars to protect our shorelines and our beaches.

I see my colleague and friend from New Hampshire is ready to speak again.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Morning business is closed.

#### 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 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 further 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 modified amendment No. 3746 (to amendment No. 3739), to restore to the States the right to protect consumers from usurious lenders.

Dodd (for Cantwell) amendment No. 3884 (to amendment No. 3739), to improve appropriate limitations on affiliations with certain member banks.

Cardin amendment No. 4050 (to amendment No. 3739), to require the disclosure of payments by resource extraction issuers.

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes of debate, equally divided and controlled between the Senator from Connecticut, Mr. DODD, and the Senator from New Hampshire, Mr. GREGG, or their designees, prior to a vote in relation to amendment No. 4051.

The Senator from New Hampshire is recognized.

AMENDMENT NO. 4051

Mr. GREGG. Mr. President, I sort of did a trailer version of this bill a few minutes ago while we had some time in morning business. But let me discuss the amendment again.

The PRESIDING OFFICER. Will the Senator call up his amendment.

Mr. GREGG. I call up amendment No. 4051 and ask unanimous consent that the pending amendment be set aside.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 4051 to amendment No. 3739.

Mr. GREGG. 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 as follows:

(Purpose: To prohibit taxpayer bailouts of fiscally irresponsible State and local governments)

On page 18, between lines 17 and 18, insert the following:

#### SEC. 5. PROHIBITION ON THE USE OF FEDERAL FUNDS TO PAY STATE OBLIGATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds may be used to purchase or guarantee obligations of, issue lines of credit to or provide direct or indirect grants-and-aid to, any State government, municipal government, local government, or county government which has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government.

(b) LIMIT ON USE OF BORROWED FUNDS.—The Secretary shall not, directly or indirectly, use general fund revenues or funds borrowed pursuant to title 31, United States Code, to purchase or guarantee any asset or obligation of any State government, municipal government, local government, or county government or to otherwise assist such governments, in any instance in which the State government, municipal government, or county government has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government.

(c) LIMIT ON FEDERAL RESERVE FUNDS.—The Board of Governors shall not, directly or indirectly, lend against, purchase, or guarantee any asset or obligation of any State government, municipal government, local government, or county government or to otherwise assist such governments, in any instance in which the State government, municipal government, local government, or

county government has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government. Notwithstanding any other provision of law, no Federal funds may be used to pay the obligations of any State, or to issue a line of credit to any State.

Mr. GREGG. Mr. President, this amendment is pretty simple. It says American taxpayers should not be put on the hook for States which have been profligate. It says, specifically, that: Federal funds cannot be used to purchase obligations of States or local communities that are in default or are about to default, unless those States have gone through some sort of crisis such as the Katrina situation.

But if the default that the State or local community is about to experience is the function of their failure to discipline their fiscal house, then we are not going to ask the taxpayers across this country to support that error in judgment and that misguided fiscal policy of that State or that local government.

If we do not have this type of rule in play, basically we will be setting up a situation where the American people will become the guarantor of inappropriate actions across this country by legislators and city governments. You will have this untoward situation where you will basically create an atmosphere that there is an incentive for State governments and local communities to not be fiscally responsible.

It is this moral hazard issue. We debated it at considerable length when we discussed too big to fail in the banking system. This bill has a lot of issues, as far as I am concerned, but one of the things it actually handles reasonably well is the issue of too big to fail. It does need some adjustment. But it basically handles that issue pretty well.

We have designed language in this bill between Senator DODD and Senator SHELBY, which essentially says: No longer will the American taxpayer be presumed or in any way expected or have any obligation at all to support a financial institution which has gotten too large and has taken on too many risky decisions and is therefore in fiscal distress. That institution will fail. Its stockholders will be wiped out. Unsecured bondholders will be wiped out and the American taxpayer will not come in and defend that situation.

Too big to fail ends with this bill, hopefully. But it should apply also to States and local governments. We should not create the moral hazard of having taxpayers in New Hampshire or taxpayers in Nebraska or taxpayers in New Mexico responsible for profligate activity in other States.

In fact, many of our States, of course, have balanced budget requirements. In fact, in Nebraska, they do not even allow any debt, period. They have a constitutional amendment that says, there can be no debt. So they are extremely disciplined, these States, in the way they handle their budgets.

The taxpayers and the citizens of those States expect their leaders to be disciplined. So how can we ask those taxpayers and those citizens in those States that have been disciplined, who have elected people who are willing to live within their means as they govern, whether it is at the community level or at the State level, how can we ask those citizens across this country to go in and bail out other States and our communities that have been totally undisciplined in managing their fiscal house and have put themselves at huge distress and have defaulted on their debt or are about to default on their debt?

This is not acceptable. If we are going to have a bill which addresses the issue of too big to fail, it should apply to this type of a situation. So I have offered this amendment. It is very simple, as I said. It prohibits Federal funds from being used to purchase or guarantee obligations of States and local communities that are in default or about to go into default.

It is a pretty strict standard, pretty clear. If you have a State that for reasons of its own making has created a fiscal mess of inordinate proportions and cannot pay its debt, it cannot come to Washington and say: We want you to bail us out.

That is not right. That is not appropriate. So this bill bans that sort of an event from occurring. Why do we need to do this? It is pretty obvious. There are a couple States in this country that have been irresponsible in their spending, that have not disciplined themselves, and that, I think, are expecting everybody else in this country to bail them out.

I sure do not want to be part that. I do not want my taxpayers in New Hampshire to be part of that. It is not fair that they should be part of that. Those States are going to have to figure out how to straighten out their own fiscal house. They should have to do that within the terms of their own spending streams and their own revenue streams.

They should not expect the Federal Government to come in and take them out of their distress, which was self-imposed and self-created. There is an exception in this bill. There is this language so that if a State is put into severe distress because of an emergency situation, such as a Katrina-type situation, this would not apply. Obviously, it should not apply then.

If it is a self-imposed event, simply resulting from the human nature of legislators and city councils to sometimes spend a heck of a lot more money than they have and that they can take in under their structure, they should have to pay for it and figure out how to deal with it themselves. They should not pass that problem on to the American people by financing it through Washington. It is consistent with the theme of this bill that there should be nothing that is too big to fail in this country, including State gov-

ernments and local governments or financial institutions. I hope my colleagues will support the amendment.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. BURRIS. Mr. President, as I take the floor today, my colleagues and I are caught up in a momentous debate over the shape of our Wall Street reform bill.

This legislation will not only help secure America's continuing economic recovery, it will also help prevent this kind of economic crisis from happening again in the future.

It would create commonsense regulations designed to keep major institutions from gambling with America's economic stability, and it would extend a helping hand to the underserved populations that are currently suffering the most especially minority individuals and the elderly.

I believe when the history of this economic crisis is written, we will judge that its most damaging legacy was the harm it did to people's savings and investments.

It wiped out stock portfolios and 401(K)s. It forced many fixed-income retirees to go back to work, and it undermined the hard-earned retirement security of an entire generation of Americans. So it is time to take action.

We need to do everything we can to protect people's savings, investments, and retirement security.

In a broad sense, this means limiting the risk that big firms can pose to the economy as a whole, and shoring up our overall financial stability. But it also means we need to guard against fraud and abuse.

We need to prevent scam artists and people like Bernie Madoff from taking advantage of hard-working Americans, so folks can breathe a bit easier, so people know that their money is safe.

Today, many Americans—including 39 percent of minority households—invest in the financial markets.

Most of these folks expect their portfolio to be there for them when they retire.

But when big companies sell risky investment packages, and then bet against those investments—when companies have no incentive to be honest about high-risk opportunities—regular folks are bound to get the short end of the stick.

That is why we need to institute basic rules of the road—to cut down on fraud and misrepresentation, and make sure financial institutions are operating fairly.

That is why our Wall Street reform bill includes a number of key protections for American investors.

Our legislation would create a new program at the Securities and Exchange Commission which would mandate an annual assessment of all internal supervisory controls, and encourage folks to report violations.

It would establish a new Office of Credit Rating Agencies to strengthen regulation, expose hidden risks, and make sure a warning system is in place so we are never caught off guard again.

Our bill would also require companies that sell mortgage-backed securities to hold on to at least 5 percent of the credit risk—or meet underlying loan standards—so their performance is tied to the products they are distributing.

It would require these companies to be more transparent about the assets that underlie these securities, and more straightforward in their quality analysis.

Finally, our legislation would give a company's shareholders the right to a nonbinding vote on executive pay so pay can be brought in line with performance, and these folks can make their voices heard.

Together these measures would help to bring transparency and stability back to the financial markets.

This would bolster the integrity of people's investments, and would help ensure that their retirement savings are secure.

There will always be risk associated with making investments, and that is exactly as it should be.

That is how our free market system is designed to work.

But we need to eliminate the possibility that fraud and abuse can undermine the security of our entire economy.

We need to pass rules of the road that will keep financial institutions honest, so ordinary Americans will be protected from serious harm at the hands of those they entrust with their savings.

I yield the floor, suggest the absence of quorum, and ask unanimous consent that the time under the quorum be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KOHL. I ask unanimous consent to speak for up to 5 minutes.

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

Mr. KOHL. I joined the Senate Banking Committee about a year and a half ago, shortly after failures on Wall Street forced a taxpayer bailout. Bear Stearns, AIG, and other pillars of our economy had collapsed, and we learned that our financial system was built on a foundation of sand. The crisis on Wall Street hit Wisconsin households hard. Families lost their homes, workers lost their jobs, and retirees lost their life savings.

Seventy years ago Congress reacted aggressively to our gravest economic crisis, and put us on the road to prosperity by creating new regulations and

institutions that avoided a meltdown for generations. By creating agencies like the Securities and Exchange Commission and establishing margin requirements, the Federal Government helped put the markets back on track.

We are now called on to set up rules to put our economy on the right track just like we did in the 1930s. For over a year, the Senate Banking Committee held hearings to study the financial crisis. We know that the conditions that led to this mess did not occur suddenly in 2008, and these problems cannot be fixed overnight.

Wall Street needs accountability and transparency to avoid future financial meltdowns. The legislation we are considering takes vital steps to end "too big to fail," bring unregulated shadow markets into the light, and make our financial system work better for everyone.

This bill protects Main Street jobs by focusing on Wall Street, where the crisis began. Community banks and credit unions have continued to act responsibly, and should not be subject to new layers of regulation that will impede their business.

The bill also protects consumers, and I would like to thank Senator AKAKA for working with me on the consumer protections in title XII of this bill. This title will help mainstream financial institutions make small loans on affordable terms to people who are currently limited to riskier choices like payday loans. This title will also help Americans get bank accounts, and encourages banks to offer financial education to their customers.

I would also like to thank my friend and Chairman CHRIS DODD for his leadership on this legislation. Fixing our financial system is a complex challenge, and Chairman DODD has worked tirelessly to get this done right. He has been called upon to do so much in this Congress, and he has done it all with fairness, wisdom, and good humor. We will miss his steady hand in the future.

I hope the Senate will continue to work in a bipartisan manner to complete this important bill. Our economy is slowly recovering from a devastating shock, and we must ensure that our progress is built on a more secure foundation. Continuing business as usual on Wall Street is not an option.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I rise to speak on the Gregg amendment and ask unanimous consent to be included as an original cosponsor.

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

Mr. BOND. It is important we recognize what a fiscal crisis we face in the United States. Today, America's public debt stands at over \$12.9 trillion. Regrettably, that will be on our children's and grandchildren's credit cards. We have, just last year, raised that debt by \$1.4 trillion, and it will be \$1.6 trillion added this year. This mountain

of debt is going on the backs of our children and grandchildren. We will have to pay the interest on it, but they are the ones who will bear the real burden. Taxpayers are already bailing out Wall Street and failed banks with \$700 billion; GM and Chrysler, \$80 billion; the toxic twins, Fannie Mae and Freddie Mac, more than \$1.2 trillion. We have tried unsuccessfully to deal with Fannie and Freddie in this financial regulation bill. When we look at the cause of the financial crisis, it is the subprime market, the bad home loans that were enabled by Fannie and Freddie being willing to purchase them. In my humble estimation, we should not pass a financial regulation bill designed to prevent a reoccurrence of the crisis which we have just gone through without dealing with Fannie and Freddie.

But when you look at the budget deficit, taxpayers are on the hook for \$1 trillion in a failed stimulus package which only created jobs in the governments. It was a government expansion, not a measure to create jobs in the private sector.

The President and majorities in Congress have also recently created a new taxpayer-funded entitlement for health insurance. Many of us in December were pointing out the fact that this bill would add to the debt, it would drive up costs of private health insurance, it would limit the ability of seniors on Medicare to get their services by cutting the amount of money going into Medicare, and it would lead to higher taxes.

Funny thing, the new Actuary at the CMS has just come out and repeated those same four things. The health care bill is not only going to drive up private insurance costs, you are not going to be able to keep the same plan you had, it will continue to squeeze down the services Medicare recipients can receive, and it will add to the deficit and, thus, the debt.

But how much more debt and how many more unfunded liabilities can we take on before destroying the economy? What is happening in Greece, regrettably, could happen here. I strongly support the Gregg amendment, which will ensure that taxpayer funds are not used to bail out States.

We talked about too big to fail in terms of financial institutions. We ought to be talking about it in terms of governments. We adopted an amendment saying we should not use taxpayer money to bail out Greece. But we should not be in the position where we would be called upon to bail out States which have been unable to get their spending under control and get their spending in line with their revenues.

I know a little bit about tight State budgets. When I was Governor of Missouri, we had to make tough decisions. I came back into office as Governor in 1981, with a huge deficit in the middle of the year, and we could not borrow money to cover that deficit. So we made major, drastic cuts in spending,

and it was not pleasant. I was picketed by people who had to be laid off from the State government. But we readjusted and managed to provide services our State needed and put the State back on a sound financial footing.

States all across the country are taking tough steps. There are areas where they have agreed to go without services to get their budget back in balance. Most States do not have the ability to run deficits. Those that do have the ability to do that should not be operating on the false assumption that the Federal taxpayers and our children and our grandchildren will come back in and be asked to take the irresponsible and unacceptable task of putting a burden on residents of the States that have made the tough decisions and cut spending to pay for the mounting debt of other States that have spent their way into the red for years.

In fact, a bailout of States would create a disincentive, an ongoing disincentive, for State leaders to make tough decisions and implement necessary reforms to get their budgets in balance and future liabilities under control.

The Missourians I hear from are very angry. They are angry every day at spending money on things that are too big to fail. They are angry that the government continues to use their hard-earned dollars to help companies such as AIG and potentially to help a country such as Greece, which failed, instead of paying down our debt and cutting the runaway spending.

This bailout mentality must end. I thought that was one message we were going to carry with this legislation. I hope this legislation actually does, although I am concerned there are provisions that could enable the Federal Government to continue bailing out and taking over more businesses.

The Federal Government must not continue to be an enabler of those companies or those countries or States that continue to spend beyond their means. It is time for the leadership at the State, as well as the national level, to make the decisions necessary to put all of us on a sound financial footing.

I thank Senator GREGG for his strong leadership on budget issues and for offering this amendment, and I urge my colleagues to support his amendment.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, first, let me thank the Senator from Missouri for his thoughtful and substantive discussion of this amendment. As a former Governor, I think he appreciates how tough it is to maintain balances in the State budget, and you have to make the very difficult decisions to make sure your State does not get its fiscal house into disarray and end up defaulting on debt. That would be the worst thing that could possibly happen if you were a Governor—or one of the worst things. In any event, he certainly did that when he was Governor. I tried to do that when I was Governor.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired.

Mr. GREGG. Mr. President, I ask unanimous consent that after the Senator from Connecticut has used up the time that was originally allocated to him, the remaining time between now and 12:05 be divided equally between the two sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent to speak on that remaining time.

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

Mr. GREGG. I think the Senator from Missouri has made a superb case that it is inappropriate to set up a structure where States can be profligate or communities can be profligate and then basically throw the problems they have created on the rest of the country and the taxpayers of the rest of the country—whether they are from New Mexico or Missouri or Connecticut or New Hampshire. There is no reason why our taxpayers should pay for inappropriate fiscal actions by some other State or some other community. Rather, those States and communities should have to straighten out their own financial house and not expect that they can come to the Federal Government for a bailout if their problems have been self-inflicted, created by their own failure to discipline their fiscal house.

As I said earlier in the discussion, a lot of States have a balanced budget amendment. I am not sure whether Missouri did—New Hampshire did not—but we understood if we did not run fiscally responsible budgets in New Hampshire, we would find our debt downgraded. That is what we were worried about—to get to the point where you might actually default, which would be, as I said, a totally terrible situation.

But in States that have balanced budget amendments, States which have worked very hard to keep their fiscal house in order, the taxpayers of those States should not have to suddenly step up and take care of the taxpayers of another State that has failed to do that. It is not fair. It is not equitable. You certainly do not want to create that atmosphere because if you have an atmosphere where one State can throw its problems on to every other State, then you create an incentive for States to be profligate and irresponsible.

AMENDMENT NO. 4051, AS MODIFIED

With those comments, Mr. President, I ask to modify my amendment. I believe the modification is at the desk.

Have we shared the modification with the Chairman?

Mr. DODD. I believe so.

I ask the Senator, this is the modification?

Mr. GREGG. Yes.

Mr. DODD. As I understand it, the modification is a new paragraph:

(d) Limitation.—Subsections (a) and (b) shall not apply to federal assistance provided in response to a natural disaster.

Is that right?

Mr. GREGG. That is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it will be so modified.

The amendment, as modified, is as follows:

On page 18, between lines 17 and 18, insert the following:

**SEC. 5. PROHIBITION ON THE USE OF FEDERAL FUNDS TO PAY STATE OBLIGATIONS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds may be used to purchase or guarantee obligations of, issue lines of credit to or provide direct or indirect grants-and-aid to, any State government, municipal government, local government, or county government which has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government.

(b) LIMIT ON USE OF BORROWED FUNDS.—The Secretary shall not, directly or indirectly, use general fund revenues or funds borrowed pursuant to title 31, United States Code, to purchase or guarantee any asset or obligation of any State government, municipal government, local government, or county government or to otherwise assist such governments, in any instance in which the State government, municipal government, or county government has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government.

(c) LIMIT ON FEDERAL RESERVE FUNDS.—The Board of Governors shall not, directly or indirectly, lend against, purchase, or guarantee any asset or obligation of any State government, municipal government, local government, or county government or to otherwise assist such governments, in any instance in which the State government, municipal government, local government, or county government has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government. Notwithstanding any other provision of law, no Federal funds may be used to pay the obligations of any State, or to issue a line of credit to any State.

(d) LIMITATION.—Subsections (a) and (b) shall not apply to Federal assistance provided in response to a natural disaster.

Mr. GREGG. A parliamentary question: Mr. President, don't I have the right to modify without asking for unanimous consent?

The PRESIDING OFFICER. There was a time limit on the amendment. That did require unanimous consent.

Mr. GREGG. I thank the Chair.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent that the time until 12:05 p.m. be divided for debate with respect to the Gregg amendment No. 4051, and that at 12:05 p.m., the Senate proceed to vote in relation to the amendment, with the provisions of the previous order remaining in effect.

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

Mr. DODD. Mr. President, let me address this amendment, if I can.

First of all, let me express my admiration and respect for JUDD GREGG. He and I are good friends. We have worked together on numerous issues over the years, so I have developed a great deal of respect for him. In fact, it was JUDD GREGG and a handful of others who made it possible, 18 months ago, for us to develop the emergency economic stabilization bill. Without his leadership and support, I think our country, unarguably, and, beyond our own borders, the world would have been in much more difficult economic shape—had it not been for his leadership, along with others who pulled together that proposal that passed this body 75 to 24 on that night in late September of 2008. So my admiration for Senator GREGG—and among other accomplishments he has had during his service here—is strong.

This proposal, however, goes way beyond anything I have ever quite seen here, which basically says the Federal Government cannot provide any help to States and local governments. Then the wording of it: even if you might be in trouble.

I go back and I think of New York City, a major metropolitan area of our country, which was in economic difficulties. I do not remember the history, exactly, of what occurred that brought the city to that fiscal brink, but it was serious enough, and there was a serious debate here that occurred before I became a Member of this body over what could be done to help put that city back on its feet again.

As a result of the efforts, both in New York, New York State, as well as here, New York recovered, paid back whatever it was it received in financial assistance, and, arguably, the most important metropolitan area of our Nation survived a fiscal disaster.

Again, now, through the IMF and the World Bank, we appropriate moneys each and every year to support international organizations that have as one of their purposes—or their purpose is to provide financial assistance and stability to nations that are struggling. In many cases, I suspect they are struggling for exactly the same reason my colleague and friend from New Hampshire has identified: They made bad choices, bad decisions. I am not suggesting their problems were afflicted by outside forces, although that could happen.

Certainly what we are watching today in Europe is a classic example, where you have other nations now in trouble because of one Nation's I will even call it fiscal irresponsibility. I am not sure that is the final conclusion, but let's call it that. Yet we find the declining Euro, we find debt in trouble in that country, so other nations are feeling the effects of it.

We have all seen where events could occur in our own country: The automobile industry in Michigan ends up in deep trouble. That has an impact on other States. It certainly affects the economy of Michigan. The idea is “one

nation,” and we are one nation. We are not Europe where we have separate political structures and separate rules and regulations and one currency which pose difficulties. We are one people here, whether you live in New Hampshire or Connecticut or Arizona or Alaska or Hawaii or Texas or Oklahoma. Wherever it is, we are one people.

Lord knows, we do not want to reward irresponsible behavior on the part of a local government or a State. But the idea that we are going to terminate or not provide any kind of assistance because we have drawn the conclusion, in the wording of this amendment, as I read it in this language here:

The Board of Governors shall not, directly or indirectly, lend against, purchase—

All these things we could do here—

State government, municipal government, local government, or county government [that] has defaulted on its obligations, is at risk of defaulting, or is likely to default. . . .

Who makes that determination: “is likely to default” or “is in danger of”? Is there some omnipotent force that is going to lean over all of this and say: I think such and such a county or such and such a State is “in danger of”? That is pretty vague language here to decide, all of a sudden, regardless of the reasons.

We have excluded natural disasters. I appreciate that addition to this amendment. But there can be other factors which can contribute to these circumstances in a State.

Again, according to the language on the first page of the amendment, it says:

Notwithstanding any other provision of law, no Federal funds may be used to purchase or guarantee obligations of, issue lines of credit to or provide direct or indirect grants-and-aid to, any State. . . .

I remind my colleagues that is a pretty broad, sweeping proposal.

Medicaid; the Children's Health Insurance Fund; the CDC's disease control, research, and prevention programs; the Special Supplementary Nutrition Program for Women, Infants, and Children; the Unemployment Trust Fund; Veterans Health Administration medical services; Department of Justice, State, and local enforcement assistance; FEMA—FEMA, I guess, may be excluded because of “a natural disaster”—but the idea we would be depriving a State of these resources seems to me would only exacerbate the problem.

Again, I will acknowledge in certain circumstances local governments or State governments have made irresponsible choices. But you do not blame the entire population of that State or locality because some leadership has made a bad choice and then cut off Medicaid, nutrition assistance, and so forth. Do you blame a child living in a State because some Governor, a mayor, a county executive has made dumb decisions, and all of sudden, we say: “I am sorry, you happen to live in that State. You are going to have to

move. Go someplace else in order to get help”?

I, for the life of me, do not understand. I understand the frustration we all feel when we read about States and localities that could have made better decisions. But, again, I remind my colleagues here, we are one Nation—one Nation. “E Pluribus Unum”—they are the words right above the Presiding Officer's chair—“from the many, one.” We are many: Over 300 million in 50 States and hundreds and hundreds of jurisdictions across the country. Thank the Lord we are not just some collection of disparate entities bound together by a common currency and little else. We are bound together by much more as a nation.

So I hope my colleagues, at 12:05 or thereafter when we vote on this, would say respectfully to our friend from New Hampshire that this amendment ought to be rejected.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I admire the Senator from Connecticut and I appreciate what he has done in his efforts to stabilize the financial industry in this country. At the core of what he has done, of course, is to say: No more bailouts. That is essentially what this bill is about: No more bailouts; the taxpayers of this country will not step up and bail out large financial institutions which have taken actions which have put them at risk financially, and the only people who should bear that burden are the stockholders and the unsecured bondholders of those institutions.

What this bill also says is no bailouts, no bailouts for States which are in default or about to default on their debt. They are doing it not as a result of some external event forcing them into dire straits but because they simply spent their way into a fiscal situation where they can't pay their own debts. Why should the people of Connecticut, the people of New Hampshire have to bail out the people of California—let's be honest about this; this is about California, the people of California—because their government has been totally irresponsible in spending for a large number of years, has created a massive obligation, especially in their public pension programs, which they can't afford to pay? Why did they run up those obligations? So that people who were running for office in California could get elected. Just promise this, promise that, promise this, promise that. Then, the people in New Hampshire are supposed to pay to help those people get elected on those promises which they could never fulfill and for which they created obligations to pay for? I don't think so. I don't think that is fair or right.

If the people of New Hampshire and the people of Connecticut and the people of New Mexico have been fiscally responsible in the managing of their towns and their cities and their States

and their counties, why should they suddenly have to pay for California which hasn't been? Clearly, they shouldn't. If we are going to have a no bailout bill, it ought to apply to California as well as to large financial institutions that have acted inappropriately and unwisely.

That is all this says. It doesn't say you are not going to be able to get your usual Federal assistance that comes through the usual course of action. That is a bit of hyperbole. I appreciate the intensity and energy of the Senator from Connecticut, but that is hyperbole. This is about not having Federal funds be available to States that are in default or about to go into default on their debt as a result of the actions of the State leadership as elected by the people of that State and not asking the people in the rest of the country to have to pay the cost of those inappropriate actions and those actions which were fiscally irresponsible. It seems like a proposal which is totally consistent with the basic purpose of this bill, which is to end bailouts.

I reserve the remainder of my time.

**THE PRESIDING OFFICER.** The Senator from Connecticut.

Mr. DODD. Mr. President, I will not take a long time to respond.

First of all, the distinction between a public company—and, again, my colleague is absolutely correct; we want to end bailouts of those companies, and we certainly want to discourage the kind of behavior that can put a county or a city or a community or a State in fiscal jeopardy.

But the legislation also looks backward. On page 2 of the amendment it says: "Municipal government, local government, or county government which has defaulted on its obligation." So it isn't just those that may default. Orange County, CA, for instance, defaulted, and worked itself out of its difficulties. But now I am to understand that because Orange County was in default a number of years ago, got out of its difficulties, yet the adoption of this amendment would preclude Orange County potentially from getting any kind of assistance. I don't understand that.

Again, there are a lot of reasons, aside from natural disasters, why this can happen. Some of them have nothing to do—a major industry which all of a sudden finds itself departed. How many times have we seen a company located in a State or a locality, particularly a county, that is the major employer, employs thousands of people, all of a sudden go offshore. There is a dramatic decline in tax revenues that come in. So that community's obligations to its citizenry on education, health, highways, everything else, all of a sudden are in jeopardy. That is not mismanagement of the government. It is that company made the decision to leave. All of a sudden we find an area in trouble and they turn to their national government for some help, and

we are saying: Well, because you are at risk of defaulting—not that you have defaulted; the language is, "is likely to default or at risk to default," you can't get any help because you might be in trouble, not because you have done anything wrong necessarily but because it has happened to you. I just feel that such a step would be draconian, in the extreme, when it comes to the people of our Nation who, from time to time, need help with that list of obligations that would have to be curtailed if a community is likely to or is at risk of defaulting or has defaulted on its obligations. Over what period of time? Are we talking about 10 years, 20 years, over 100 years? How far do I go back to determine whether someone has defaulted? What were the reasons for it that occurred at that time? It provides none of that relief, except that maybe it was a natural disaster.

Ms. STABENOW. Would my distinguished colleague yield for a question?

Mr. DODD. I am happy to yield.

Ms. STABENOW. First, I would say to our distinguished chair of the Banking Committee that when you describe communities where businesses have collapsed and left communities struggling, certainly we have many of those in Michigan. Through no fault of the communities, and many times through no fault of businesses in terms of our recession right now, we have many communities in this situation.

Would the Senator from Connecticut agree that what we are talking about is not the cities or counties but the local communities and what happens? It is people. It is whether they are going to have a police force, police on the street or whether they are going to have the firefighters being able to answer if there is a fire or whether they are going to be able to pick up the garbage or whether they are going to be able to do snow removal on the streets. Aren't we talking about whether communities—people, families, and communities—if they need help, whether we would be able to respond to them? So it is not about the government; it is about whom it serves and the people who would be hurt through something such as this; would the Senator agree?

Mr. DODD. Mr. President, my colleague from Michigan is absolutely correct and that was the point I made earlier and she makes it even more strongly. Again, I don't want to sound like I am in a civics class, but we are not just sort of a collection of disparate States and communities, we are a country, we are one Nation. It has been a great source of our strength. Our country has been through difficult times periodically, obviously through some natural disasters, through some manmade disasters. We are dealing with one as we speak. That is not a natural disaster occurring in the Gulf of Mexico; that is a manmade one. People didn't put in the proper safeguards and all of a sudden we are looking at the worst environmental disaster maybe in our Nation's history.

What do we say to the States of Louisiana or Alabama or Florida, depending upon where these currents flow, and all of a sudden we find major industries—tourism, for instance, in the State of Florida. I don't know what percentage of the economy of that State depends upon tourism, but I suspect a pretty heavy number. All of a sudden beaches are closed on the west coast of Florida. Maybe that current brings it around to the east coast. All of a sudden hotels and resort areas are shut down. The economy begins to falter. A manmade disaster, created through the fault of some engineers or whoever else, of an oil company: What do we say if this amendment was adopted? I am sorry, Florida. It is in danger of defaulting or at risk of defaulting on its obligations because the revenues that would come into that State through the normal exercise of its business practices was affected not by a natural disaster but by one created through the fault, malfeasance or misfeasance of a company that caused this kind of danger—or Louisiana, which has already been through a natural disaster and is now facing this one, or Alabama as well and its coastline.

So, again, for all these reasons, I urge my colleagues to reject this amendment. I thank my colleague from Michigan for making her points.

I reserve the remainder of my time, yield the floor, and note the absence of a quorum. I ask unanimous consent that the time be charged equally between the two sides.

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

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

AMENDMENT NO. 3884, AS MODIFIED

Mr. DODD. Mr. President, on behalf of Senator CANTWELL and others, I ask unanimous consent to send a modification to the desk.

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of subtitle C of title I, add the following:

**SEC. 171. LIMITATIONS ON BANK AFFILIATIONS.**

(a) **LIMITATION ON AFFILIATION.**—Beginning 2 years after the date of enactment of the Restoring American Financial Stability Act of 2010, no member bank may be affiliated, in any manner described in section 2(b), with any corporation, association, business trust, or other similar organization that is engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation stocks, bonds, debenture, notes, or other securities, except that nothing in this section shall apply to any such organization which shall have been placed in formal liquidation and which shall transact no business, except such as may be incidental to the liquidation of its affairs.



(b) **LIMITATION ON COMPENSATION.**—Beginning 2 years after the date of enactment of the Restoring American Financial Stability Act of 2010, no officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual, primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities, shall serve simultaneously as an officer, director, or employee of any member bank, except in limited classes of cases in which the Board of Governors of the Federal Reserve System may allow such service by general regulations when, in the judgment of the Board of Governors, it would not unduly influence the investment policies of such member bank or the advice given to customers by the member bank regarding investments.

(c) **PROHIBITING DEPOSITORY INSTITUTIONS FROM ENGAGING IN INSURANCE-RELATED ACTIVITIES.**—

(1) **IN GENERAL.**—Beginning 2 years after the date of enactment of this Act, in no case may a depository institution engage in the business of insurance or any insurance-related activity.

(2) **DEFINITION.**—As used in this section, the term “business of insurance” means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.

Mr. DODD. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. 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. BOND. Mr. President, I ask unanimous consent to speak for 2 minutes remaining on Senator GREGG's time.

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

#### AMENDMENT NO. 4051

Mr. BOND. Mr. President, the argument has been made that this bill would somehow limit responses to natural or manmade disasters, a natural disaster such as a flood or a tornado, a manmade disaster such as what is occurring in the gulf.

I have read this language. It is very clear. It is talking about defaulting on obligations. It in no way restricts the ability of the Federal Government to respond to disasters.

I used to chair the subcommittee on the Federal Emergency Management Act, and when there was a disaster, we provided money for those disasters, to deal with those disasters. But one cannot continue to present unbalanced budgets and enact them into law and continue to drive up the debt and say it is because of a natural or manmade disaster.

That is a stupid decision. I don't think the taxpayers of the United States should be in a position of bail-

ing out governments that make bad decisions and that, year after year after year, spend more money than they are taking in on their ongoing obligations. It has nothing to do with a sudden natural disaster or even a manmade disaster such as the spill in the gulf, which is partly natural and partly manmade. I agree that we should not stop providing assistance where there is such a disaster, but that is not the focus of this amendment.

I urge my colleagues who really believe we should not be promising to bail out profligate States that continue to spend more than they take in, we should not bail them out with taxpayer funds.

I yield the floor.

Mr. GREGG. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes 40 seconds.

Mr. GREGG. Mr. President, I really think the Senator from Connecticut is sort of reaching in his arguments here. This is really about a State like California defaulting and the rest of us having to pay for it. That is what this is about. This is about a State that has been irresponsible, to be kind, with its spending and now finds itself in a situation where it cannot pay its debt. You know the legislators of that State are saying: Let's go to Washington and get the money so that we can get reelected on the basis of spending all this money. That is not fair. That is not how a federalist system is supposed to work. You cannot argue that the American system was set up so that when one State would be profligate, another State would have to pay for the cost of that profligateness.

The Senator's bill uses this same language. The Senator from Connecticut had phraseology that claimed my language as inappropriate on the issue of default and how he defined it, and it basically mirrors his language in title II. If it works in title II, it ought to work here.

The real issue is that we should not set up a situation where States and communities can expect to spend a lot more than they can take in, know they are spending more than they are taking in, run up a lot of debts they cannot pay, and then come to the rest of America and say: You pay our debts because we want to get reelected. That is what this is about. It is limiting the ability of States to act in a fiscally irresponsible manner and expect the country will stand behind them and bail them out.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent that the time run equally against both sides.

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

Mr. GREGG. I yield the floor.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the Gregg amendment.

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

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

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 153 Leg.]

#### YEAS—47

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

#### NAYS—50

Akaka	Gillibrand	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bingaman	Inouye	Pryor
Boxer	Johnson	Reed
Brown (OH)	Kaufman	Reid
Burris	Kerry	Rockefeller
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Stabenow
Casey	Lautenberg	Udall (CO)
Conrad	Leahy	Udall (NM)
Dodd	Levin	Warner
Dorgan	Lieberman	Webb
Durbin	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Franken	Mikulski	

#### NOT VOTING—3

Byrd	Lincoln	Specter
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The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 50. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, in a minute I will note the absence of a quorum, but we are working on a consent agreement that would schedule two votes after the weekly caucus conference lunches. We will possibly be able to do that. We are trying to get that written up. As soon as we get it written up, I will present it. But I see my colleague from Texas is ready to speak, so I will yield the floor and let her go ahead.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I was going to speak on the amendment Senator LANDRIEU and I have, the Hutchison-Landrieu amendment. I will be happy to yield any time the chairman of the committee wishes to clarify. Until he does, I will speak on the

Hutchison-Landrieu amendment, which is an amendment that has been filed but is not yet pending.

This is an amendment that will provide a permanent exemption for publicly traded small businesses with less than \$150 million from the costly reporting requirements mandated by section 404(b) of the Sarbanes-Oxley Act. In removing this great burden, our amendment will free small businesses to focus on the capital investment and job creation that we need now to get our Nation's economy back on the right track.

In 2002, Congress passed the Sarbanes-Oxley Act in the aftermath of the huge accounting frauds at Enron, Tyco, and Worldcom. This landmark bill was enacted to restore investor confidence in the wake of these shocking abuses by making it harder for companies to misrepresent corporate earnings.

Hindsight is 20-20, though, and, while the Sarbanes-Oxley Act was well intentioned, it has created unexpected and unprecedented costs for the small to medium sized businesses that serve as the backbone of our economy.

The main culprit of this immense burden on small businesses is section 404 of Sarbanes-Oxley. Here a public company is required to include in its annual report an assessment of the effectiveness of its internal control structure and procedures for financial reporting. The company's auditor must attest to and report on the company's assessment.

The compliance costs of section 404(b) have been far greater than expected. In 2009, the SEC reported that companies paid an average of \$2.3 million to comply with section 404. When taking into account the size of a company, small businesses with less than \$150 million in public float, or the shares held by outside investors, are disproportionately encumbered by section 404(b), facing a compliance cost that is seven times greater than large companies.

Small businesses are being forced to tie up time and money on burdensome amounts of paperwork. They should be directing these resources toward operations and capital investment that will create jobs and spur our economy toward recovery. The Hutchison-Landrieu amendment will fix this issue, ensuring that smaller public companies will no longer be subject to the cost burden imposed by section 404(b).

Under current SEC rules, small public companies with less than \$75 million in public float are now exempt from section 404(b). However, this exemption expires in June. The Hutchison-Landrieu amendment builds on this existing exemption and takes into account recommendations from the SEC to increase the exemption. Our amendment will permanently exempt small businesses with less than \$150 million in public float from the section 404(b).

I am pleased that my amendment has the strong bipartisan support of my colleague, the distinguished chair of the Small Business Committee, Senator LANDRIEU. I also thank our other cosponsors, Senator BOB BENNETT, Senator SCOTT BROWN, Senator CRAPO, Senator DEMINT, and Senator HATCH.

We are offering our amendment on behalf of the small businesses across our country that face this disproportionate burden. We have the support of: The Biotechnology Industry Organization, The Competitive Enterprise Institute, TechAmerica, The Association for Competitive Technologies, Advanced Medical Technology Association, and Technet.

These groups represent the companies that want to innovate. That want to grow. They want to excel. But their companies are spending vast amounts of money on compliance costs, and, according to an SEC study, this money is being misdirected. The SEC reports that 75 percent of companies believe that the attestations of auditors required by Sarbanes-Oxley have little to no impact on investor confidence. Thus, rather than devoting important resources to invest and create jobs, small businesses are spending millions of dollars on paperwork that investors don't even care about.

Our amendment also has the support of the Independent Community Bankers of America, and the American Bankers Association. Our community banks want to lend to worthy entrepreneurs and help jump start our economy. But our entrepreneurs and small businesses are hesitant to grow if they are hit with the high costs associated with 404(b) compliance.

We are also offering this amendment because of the unintended consequences on our initial public offering market brought by section 404(b). Since the enactment of Sarbanes-Oxley in 2002, IPOs in the United States have been lower each year than in every year of the 1990s. Even in 2006, the peak year of economic growth after Sarbanes-Oxley, the 162 U.S. IPOs were far below the 295 IPOs issued in 1991 when our economy was mired in recession. This drop-off in IPO's hit the map in 2008 and 2009, when, according to a Renaissance Capital report, the IPO level was lower than any period since the Vietnam war.

Why is this? Why are companies avoiding initial public offerings? Why are companies refusing to access the capital that the stock markets provide? Quite frankly, companies do not want to deal with onerous burden of Sarbanes-Oxley. And based on the costs I mentioned, who can blame them?

This provision incentivizes small businesses to remain private to avoid 404(b) altogether. Worse, it incentivizes small businesses to go abroad to markets such as the London Stock Exchange, which has advertised itself as a Sarbanes-Oxley Free Zone, to encourage our companies to do their IPOs there instead of in America.

Small businesses should not be incentivized to stop growing or list overseas. The Hutchison-Landrieu amendment also has the support of the New York Stock Exchange and NASDAQ, who want to see American companies list here and remain home-grown. Now more than ever, we should be encouraging our Nation's small businesses to invest in new jobs, plants and markets. Our amendment will help small businesses do this by reducing their paperwork costs. A similar measure was included in the House financial reform language, and with immense bipartisan support. I ask my colleagues to support the Hutchison-Landrieu amendment to permanently exempt small businesses under \$150 million from Sarbanes Oxley section 404(b), to ensure that small businesses can fully devote their resources toward being the engines that drive our Nation's economy.

I ask unanimous consent to have printed in the RECORD the editorial that appeared today in the Wall Street Journal that is entitled "The No-Cost Stimulus."

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

[From the Wall Street Journal, May 18, 2010]

#### THE NO-COST STIMULUS

Senate Majority Leader Harry Reid wants a floor vote this week on financial regulatory reform, and he should first add at least one provision worthy of the name. Senators Kay Bailey Hutchison (R., Texas) and Mary Landrieu (D., La.) have offered an amendment to spare the smallest public companies from the worst bureaucratic horrors of the 2002 Sarbanes-Oxley law.

Sarbox, the Beltway's previous attempt at financial-regulatory reform, was intended to improve the information investors receive about public companies. The law did nothing to prevent poor disclosure at companies like Lehman Brothers but it did saddle the U.S. economy with billions in unexpected costs. Even the Securities and Exchange Commission, a Sarbox cheerleader, found in a 2009 survey that the average public company pays more than \$2 million per year complying with the law's Section 404. The indirect costs may be much greater, as initial public offerings of U.S. companies have never returned to pre-Sarbox levels.

The SEC admits that compliance burdens fall disproportionately on smaller companies. This is one reason the two Senators aim to exempt companies with less than \$150 million of shares held by the public from "internal-controls" audits.

These audits are piled on top of the traditional financial audit, and on top of a company's own internal-controls review. The result is that going public in the U.S., once the dream of entrepreneurs world-wide, has for too many company founders become something to avoid. If President Obama is hoping for an unemployment rate below 9%, encouraging these job creators is an obvious step.

Thanks to New Jersey's Republican Scott Garrett and Democrat John Adler, the House has already passed a similar reform. Now the Senate should allow America's most innovative companies to create jobs at no cost to taxpayers.

Mrs. HUTCHISON. Mr. President, this editorial that appeared in the Wall Street Journal today says we can have



a stimulus that will cost taxpayers nothing by freeing our small businesses and especially our entrepreneurial and high-tech businesses from the burdens of all this paperwork and instead let them focus on growing, on listing their IPOs in America for the benefit of the American economy. That is what we should be doing, and that is what the editorial says.

I hope very much my colleagues will listen and we will be able to pass the Hutchison-Landrieu amendment, hopefully by voice vote. This should be a unanimous amendment passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I want to propound a unanimous consent request. It has been cleared on both sides. I ask unanimous consent that at 2:15 p.m., the Senate consider the following two amendments: Senator CORKER of Tennessee, amendment No. 4034, and Senator CARPER of Delaware, amendment No. 4071, which is side-by-side to the Corker amendment; that the amendments be debated concurrently for a total of 30 minutes, with the time equally divided and controlled between Senators CARPER and CORKER or their designees; that upon the use or yielding back of time, the Senate proceed to vote in relation to the Corker amendment, to be followed by a vote in relation to the Carper amendment, with no amendment in order to either amendment prior to a vote.

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

#### RECESS

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

Thereupon, the Senate, at 12:40 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I ask unanimous consent to speak for 3 minutes as in morning business.

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

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—Continued

##### ANTIPERSONNEL LANDMINES

Mr. LEAHY. Mr. President, earlier today I, along with 67 other Senators, sent a letter to President Obama on an issue that has concerned the Congress since the late 1980s.

Our letter, signed by more than two-thirds of the Senate, commends the President for conducting a comprehensive review of the U.S. Government's policy on antipersonnel mines. That review has been underway for some time, and I expect it will be completed later this summer.

It has involved consultations with the Department of Defense including

active and retired U.S. military officers, the Department of State including current and former U.S. diplomats, key military allies, and humanitarian and arms control organizations. The review has examined the historical record, asked rigorous questions, and solicited a wide range of views.

I want to thank the Senators who joined me and Senator VOINOVICH in signing this letter, which states our belief that through a thorough, deliberative review the administration can identify any obstacles to joining the Ottawa Treaty banning the production, use, transfer and stockpiling of antipersonnel mines, and develop a plan to overcome them as soon as possible.

The treaty has been signed by 158 countries, including our NATO allies whose troops are fighting with our forces in Afghanistan and Iraq, and by every other country in this hemisphere except Cuba.

This issue has a long history, and I do not have time to recount it in detail today. But suffice it to say that 13 years ago the United States missed an opportunity to play a leadership role in the international effort to ban antipersonnel mines, which culminated in the treaty. Although our country declined to join the treaty then, as early as 1994 President Clinton announced to the United Nations General Assembly his support for ridding the world of antipersonnel mines, and a plan to develop alternatives to these weapons with the intent of joining the treaty by 2006.

That date came and went, alternatives were developed, and U.S. troops have fought in two wars without, to the best of our knowledge, using these weapons. In the meantime, most of our closest allies have renounced antipersonnel mines, and their militaries long ago made the necessary doctrinal and technological adjustments to meet their force protection needs in accordance with the requirements of the treaty.

Antipersonnel landmines, which are triggered by the victim, have no place in the arsenal of a modern military. They function like some of the IEDs used by insurgents in Afghanistan and Iraq that have caused so many casualties of innocent people, as well as U.S. and coalition forces. Landmines are inherently indiscriminate, and no matter how sophisticated the technology they do not distinguish between a combatant and a civilian. They can be dropped by aircraft or disbursed by artillery by the thousands over wide areas. In today's fast moving battlefield where mobility is a priority, they can pose as much of a danger to our own forces as to the enemy.

Thirteen years ago the Pentagon argued that we should continue to stockpile antipersonnel mines. They said these weapons might be necessary in Korea or in a mechanized war against enemy armor.

But ownership and control of the mines in the Korean DMZ have been

transferred to South Korea, and the United States has renounced the use of these types of mines, including in Korea. While there is the possibility that one day we may find ourselves in a conventional war against a major world power, antipersonnel landmines would have little if any utility or relevance in such a war. Rather than our own troops needing these weapons, if our adversary were so lacking in more effective weapons as to use them, our troops would not need antipersonnel mines they would need effective countermine technology.

There have been other arguments made, none of which are persuasive. For example:

Some have asked, after landmines what is the next weapon the Pentagon will be asked to give up? Isn't this a slippery slope for those seeking to ban other types of weapons? This hypothetical question has nothing to do with antipersonnel landmines, which are in a unique category of weapons that are designed to be triggered by the victim.

They are not like bullets or bombs that are aimed or targeted by a soldier. They are inherently indiscriminate, activated by whoever comes into contact with them, whether an enemy soldier, a refugee woman searching for firewood, or a child. Renouncing landmines should have no bearing on U.S. policy toward other weapons.

I have heard it asked how we can ensure that our troops can operate in coalitions with countries that are not parties to the treaty, for example South Korea. The answer is the same way as the NATO countries that have signed the treaty whose troops are fighting in coalition with our forces in Afghanistan and Iraq.

Why join the treaty when we are in de facto compliance already? What would we gain at this point? First, this question implicitly acknowledges that the United States does not require antipersonnel landmines. We have not used them since 1991, we have not exported them since 1992, we have not produced them since 1997 and the Pentagon has no plan to do so in the future.

It is important to recognize that the United States is not causing the mine problem today, although mines we exported to dozens of countries, or that are left over from past wars involving U.S. forces especially in Southeast Asia, continue to kill and injure civilians.

But most importantly, it would be a mistake to underestimate or devalue the positive reaction, practical effects and depth of goodwill toward the United States and our military that would result from joining the treaty. Other countries know the United States, the world's most powerful nation, needs to be part of multilateral agreements if those agreements are to achieve their goals. And they know the United States needs to be part of the solution to the landmine problem,