

never seen it quite this way. From Laredo, TX, to McAllen, TX, to El Paso—where people are accustomed to the novelty and the unique nature of our international border with Mexico, and they believe in maintaining those ties for economic and other reasons—people along the border in Texas, the longest section of the U.S.-Mexican border, are more apprehensive and concerned about what lurks just beyond the border. That fear ranges from cartels actively recruiting students in our public schools to gangs in order to help them with their drug-smuggling operations.

The Border Patrol has developed “Operation Detour” to show our students how the cartels treat the young people they recruit. The response to this video presentation has reportedly been powerful.

For example, in McAllen, TX, in the Rio Grande Valley, a 14-year-old girl made an emotional exit halfway during the presentation. She told the Border Patrol her father had recently been the victim of a cross-border abduction and her family was afraid to report the kidnapping to authorities for fear of retaliation from the cartel that took him.

In Rio Grande City, TX, another city in the Rio Grande Valley, kids were crying midway through the first video because the night before a classmate had died while running drugs.

Mr. President, our children are living in fear, but the White House’s budget for border security shows it is living in denial. The President’s budget request for fiscal year 2011 cuts the Secure Border Initiative by more than 25 percent, and we know the Department of Homeland Security is considering the elimination of the SBInet Program with no alternative or replacement in place.

The SBInet Program is a Secure Border Initiative. This is supposed to be the virtual fence that, along with boots on the ground and tactical infrastructure, are designed to help us contain and control movement of people across the border. Yet it has been cut by some 25 percent.

The President’s budget also cuts the High Intensity Drug Trafficking Area Program—or the HIDA Program—by over 12 percent.

The White House even wanted to make cuts—albeit modest—to the Border Patrol by about 181 agents, before those of us in Congress made clear this was simply unacceptable. Rather than cutting, we need to be growing the size of the Border Patrol and the boots on the ground.

Mr. President, the amendment I intend to offer at the first opportunity—hopefully, tomorrow morning—says border security is a priority, not an afterthought. This amendment will fix six priorities to improve border security.

First, it will fund additional equipment that can help protect our border, including helicopters and Predator drones. We have been fighting with the Federal Aviation Administration to try to get them to quit dragging their feet

in authorizing the use of unmanned aerial vehicles to patrol our southern border, to help the Border Patrol and other law enforcement officials do their job. We are just beginning to see some headway, but they are incredibly undersourced with the lack of helicopters and the lack of additional Predator drones.

Second, my amendment will fund additional personnel in several law enforcement agencies, including the Drug Enforcement Administration; the Bureau of Alcohol, Tobacco, Firearms and Explosives; Immigration and Customs Enforcement; Custom and Border Protection; and the Counterdrug units of the National Guard.

The third thing my amendment will do will be to fund improvements for task forces and fusion centers that enhance interagency cooperation.

Fourth, it will fund additional personnel and facilities to improve detention and removal activities under Federal law.

And, fifth, it will create a \$300 million grant program to assist State and local law enforcement officials who operate within 100 miles of the U.S.-Mexican border. Because the Federal Government simply hasn’t done enough in terms of border security, local and State law enforcement have had to step up, and they need the additional help that this grant program will provide to those local and State law enforcement agencies operating within 100 miles of the border.

Finally, my amendment will provide \$100 million to fund infrastructure improvement at our ports of entry. This amendment is urgently needed, and I must add that it is fully funded. The total cost of my amendment is roughly \$2 billion. This cost is fully offset using unspent stimulus funds because we know the White House predictions about the uses of those stimulus funds have been discredited.

Remember, we were told if we voted for a \$787 billion unfunded—borrowed money—fund in order to get the economy moving again, unemployment would be kept to no more than 8 percent. Now, with unemployment at 9.9 percent, roughly, we know that stimulus program has been unsuccessful.

Two-thirds of the American people believe, according to Rasmussen—or I believe it is a Pew poll—the stimulus funds simply have not created or helped to retain jobs. We know during the period of time the White House predicted 3½ million jobs would be saved and created that 3 million jobs have been lost or destroyed by the recession.

This amendment represents a clear choice: a choice between funding the Nation’s priorities, such as border security or funding the same failed stimulus strategy. It is a choice between paying for our Nation’s priorities or adding more debt to our national credit card, already nearly maxed out at \$13 trillion.

I would urge all my colleagues to support this amendment and help send

the message to our border communities and across our country that the Federal Government acknowledges and accepts and embraces its responsibility to help keep them and our Nation safe.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

MOTIONS TO INSTRUCT

Mr. BROWNBACK. Mr. President, under the previous agreement, I call up a motion to instruct conferees that I have at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the Senate will resume the motions with respect to H.R. 4173, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes.

The PRESIDING OFFICER. The clerk will report the motion to instruct.

The legislative clerk read as follows:

MOTION TO INSTRUCT CONFEREES

The Senator from Kansas (Mr. BROWNBACK) moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on H.R. 4173 (the Restoring American Financial Stability Act) be instructed to insist that the final conference report include the House position relating to the exclusion for motor vehicle dealers from the rulemaking, supervisory, enforcement, or other authority granted to the Director of the Consumer Financial Protection Agency, as such exclusion is contained in section 4205 of H.R. 4173, as passed by the House, and that the final conference report preserves the additional provisions, definitions, and protections provided to such motor vehicle dealers and servicemembers and their families in Senate amendment 3789, as further modified, to S. 3217.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. BROWNBACK. Mr. President, I wanted the clerk to read the full motion to instruct conferees so my colleagues could understand the simplicity and directness of this motion. It is a very simple motion to instruct conferees to recede to the House position in regard to auto dealers in the Consumer Financial Protection Bureau. The House considered this in committee, and two-thirds of the committee members—half the Democrats, all the Republicans—voted to exclude the retail auto dealers from the Consumer Financial Protection Bureau. That is the way they voted. It came up

on the House floor, and it was defeated as far as to put the auto dealers in the regulatory process, so it was excluded in the House—full consideration at the committee; at the full House level, excluded.

What we are asking, now that this bill has passed, is in the motion to instruct our conferees, the Senate conferees, in going with the financial regulatory reform bill, to recede to the House position regarding the auto dealers.

I think this is a good motion to instruct conferees. I think it is something we ought to do. I think it is something that will be very helpful. I make this simple point to my colleagues: Under the Consumer Financial Protection Bureau, 100 percent of all auto loans will still be covered. If you vote for the Brownback instruction, if we recede to the House position, 100 percent of the auto loans will still be covered. We are saying in this, and the House position says: If you actually loan the money—if you are GMAC, if you are some other financiers up the street, you are under the CFPB. If you are simply the retail storefront, which is what the auto dealers are, you are not covered under the Consumer Financial Protection Bureau. You are not covered if you are just the storefront arm of this, but 100 percent of the loans are covered.

If you are an auto dealer and you make the actual loan yourself and it is your money you are lending, you are covered under the Consumer Financial Protection Bureau. If you are simply the storefront operation out here doing this, you are not covered.

The auto dealers are asking for this. They do not want the additional cost and burden of this regulation on them. They are the quintessential Main Street business throughout the country. There is not a single auto dealer on Wall Street—none of them, not one. You can go up there today and try to buy a car and you cannot get one.

These are Main Street businesses, and they took it on the chin last year. We lost, last year alone, 1,700 dealerships across America resulting in the loss of approximately 88,000 jobs. Why would we want to put a duplicative set of regulations on top of them that are already covered upstream and they have already had these sorts of losses and difficulties in a Main Street business?

We need people to create 88,000 jobs, not to eliminate or lose 88,000 jobs. Franchised auto dealers are the retail outlets. They are the storefronts that process the paperwork for various well-known brands with large financial arms. Under the House provision that my motion instructs us to recede to, these financial arms would still be regulated, but the dealers who process the paperwork would not.

Additionally, even if my motion is agreed to, auto dealers would still be regulated by the FTC and various State laws, so consumers would still

have protections to ensure the truth in lending still applies.

In fact, I have a couple of pages here of regs—excuse me, of regulatory entities that auto dealers still apply to. I ask unanimous consent this list be printed at the conclusion of my comments.

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

(See exhibit 1.)

Mr. BROWNBACK. I want to also point out what typically happens. This is a letter I am going to read from the Dale Willey auto dealership in Kansas. Dale Willey, the auto dealership in Kansas, said this about the financing that happens. I am reading from this:

Each month we have 3 to 5 buyers who tell our financial service members—

There are three to five people coming in, telling our financial service managers:

if our dealership can match or beat their bank's or credit union's interest rate, they will then finance through our dealership. To match the buyer's offer of rate terms simply provides a convenience to our buyers. To offer a better term and/or at a better rate enhances the buyer's savings by doing business with our dealership.

In other words, this is a competitive situation that typically people go into.

I will read again from the letter:

We have buyers also who are unable to secure a loan through their normal bank, credit union or lender, and yet we are able to submit the buyer's application to several of our lenders with which we have agreements, discovering that one or more are willing to make these loans to this buyer. Not only does this provide a convenience to the buyer, but it truly allows the buyer to secure a better level and lower operating cost vehicle than provided by their older current vehicle.

This is a competitive situation. It also positions people so that sometimes they are able to get loans they could not get on their own.

I want to address as well another situation that has come up in this debate that people have raised: that this protection is needed for military personnel in particular. A couple of weeks ago the Senate adopted an amendment offered by Senator REED of Rhode Island and BROWN of Massachusetts that creates the Office of Service Member Affairs at the CFPB.

My motion that we are voting on today, instructs the current regulatory authorities to work with this office when they detect abuses by auto dealers. So we are saying, if you detect an abuse by auto dealers, then this should be worked on particularly by the CFPB and this office of servicemember affairs.

I recently received a letter from the Under Secretary of the Army for Personnel and Readiness, Clifford Stanley. In it he writes this:

DOD would welcome and encourage CFPA protection for servicemembers and their families with regard to unscrupulous automobile sales and financing practices, provided such protections would not limit access to legitimate products.

That is exactly what motion does. Military personnel would have strong

protections by the CFPB but without the adverse effect of limiting their access to credit. If you want to protect the military and maintain all their options for buying a car, you should vote in favor of this motion.

I point out these matters because there has been a lot of discussion and debate going on about the auto dealers amendment throughout the proceedings of this entire bill, which has gone on for some period of time. This makes sense to do this the way the House did it. It makes sense for us to move forward with this motion to recede to the House position.

The House has established this position. They have thought it through, and 100 percent of auto loans will still be covered. It is just the auto dealership will not be the one that is covered, the upstream financier will, unless the auto dealership is loaning their own money, and then they will be covered.

If you are concerned about military personnel, there is a particular direction in here regarding military personnel. Again, any loans are covered. It is the upstream position that is covered, and it is where it should be. That is the actual person or group that is making the loan. That is the one that should be covered.

Instead of putting an additional burden on dealerships that have already lost lots of jobs, we are saying: No, let us recede to the House position.

I reserve the remainder of my time. I urge my colleagues to vote yes on the Brownback motion to recede to the House position.

EXHIBIT 1

LEGAL & REGULATORY GROUP, NATIONAL AUTOMOBILE DEALERS ASSOCIATION, MCLEAN, VA.

FEDERAL CONSUMER PROTECTION REGULATIONS APPLICABLE TO AUTOMOBILE DEALERS' FINANCIAL OPERATIONS

1. Anti-Discrimination

a. Equal Credit Opportunity Act—Federal Reserve Board (FRB) Reg B

Prohibits creditors from engaging in discriminatory practices against credit applicants; establishes guidelines for gathering, evaluating, and retaining credit information; and requires written notification when credit is denied.

b. Fair Credit Reporting Act (FCRA)—Medical Information Rule (FRB Reg FF)

Generally prohibits creditors from obtaining and using medical information when determining an applicant's eligibility for credit; also restricts sharing medical information with affiliates.

2. Unfair & Deceptive Acts or Practices

a. Federal Trade Commission (FTC) Act—FTC Credit Practices Rule

Requires creditors to provide written disclosures to cosigners before they sign a retail installment sales contract; also prohibits unfair credit practices, deceptive cosigner practices, and pyramiding late charges.

b. FTC Act—Unfair & Deceptive Acts & Practices

Generally prohibits businesses from engaging in unfair or deceptive acts or practices.

3. Credit Disclosures

a. Truth In Lending Act (FRB Reg Z)

Imposes disclosure, advertising, and other requirements on consumer credit sales.

b. Federal Consumer Leasing Act (FRB Reg M)

Imposes disclosure, advertising, and other requirements on consumer leasing.

4. Financial Privacy

a. FCRA—Obtaining Credit Reports

Requires that businesses have and certify a permissible purpose to obtain a consumer's credit report and imposes restrictions on a creditor's ability to purchase prescreened lists of customers from consumer reporting agencies for credit solicitation purposes.

b. FCRA—FTC Prescreen Opt-Out Disclosure Rule

Requires that creditors provide prescreened customers to whom they send credit solicitations with a long and short form notice with instructions on how to opt-out of future prescreened solicitations from creditors.

c. FCRA—Affiliate Information Sharing

Restricts the disclosure of credit report information.

d. FCRA—FTC Affiliate Marketing Rule

Restricts using credit report information to market to the customers of an affiliate.

e. Gramm Leach Bliley Act (GLB)—FTC Privacy Rule

Requires financial institutions to provide finance and lease customers with a notice that accurately describes the institution's privacy policy and restricts the disclosure of customers' personal information.

5. Accuracy of Credit Reports

a. FCRA—FTC Address Discrepancy Rule

Requires users of credit reports to develop procedures to ensure that credit reports ordered from consumer reporting agencies that contain a "Notice of Address Discrepancy" pertain to the correct customer.

b. FCRA—Adverse Action Notices

Requires users of credit reports to notify customers in writing when adverse action is taken against them based in whole or in part on information contained in a credit report.

c. FCRA—Risk-based Pricing Notices

Requires users of credit reports to notify customers in writing when they obtain credit on unfavorable credit terms (relative to the user's other credit customers).

6. Identity Theft

a. GLB Act—FTC Safeguards Rule

Requires financial institutions to develop a comprehensive written program to protect their customer information.

b. FCRA—FTC Disposal Rule

Requires users of credit reports to develop procedures to properly dispose of credit report information.

c. FCRA—FTC Red Flags Rule

Requires creditors and financial institutions to develop a written program that contains procedures to identify, detect, and respond to "red flags" indicating the possibility of identity theft.

d. FCRA—Fraud & Active Duty Alerts

Requires users of credit reports who receive a fraud or active duty alert on a credit report to develop procedures to verify the customer's identity before extending credit to the customer.

e. FCRA—Credit & Debit Card Truncation

Requires persons to truncate the expiration date and all but the last 5 numbers on electronically printed credit and debit card receipts given to cardholders at the point of sale.

Ms. MIKULSKI. Mr. President, the Restoring American Financial Stability Act is supposed to regulate Wall Street, not Main Street. It is Wall Street whose greed brought us the economic crisis. That is why I am voting for the Brownback motion to instruct conferees to support the House provision regarding the regulation of auto dealers.

We need a tough financial reform bill that focuses on the abuses that led to

the economic crash. This bill is intended to primarily regulate major institutions that deal nationally and globally and to improve government coordination to ensure that there is an early warning and an early response system in place to prevent a future crisis like the one we were faced with in 2008. Automobile dealers were not part of the problem that led us to where we are today and therefore should not be subject to this legislation.

We must make sure that laws that are already on the books are being implemented and enforced. Under current law, car dealers are subject to extensive Federal regulation. Dealers' retail financing activity is regulated by the Federal Reserve Board and the Federal Trade Commission, and car dealers are subject to tough Federal laws, including the Truth in Lending Act and the Fair Credit Reporting Act. Those laws must be enforced. Predatory lending practices must be stopped, and there are tools in place to do so.

I believe that auto dealers are best regulated by State and local consumer protection agencies. Main Street should be regulated by people who are closer to its daily activities. Governors and attorneys general must make sure that consumers are protected from bad actors. The Consumer Financial Protection Bureau should focus on Wall Street, not Main Street, and should not be used to increase unnecessary regulations on small businesses.

During debate on the Brownback amendment, it became clear that the men and women of our military have been targeted by unscrupulous auto dealers. This is an outrage. I never want to see our military personnel being taken advantage of. Our service men and women have dedicated their lives to this country, and we have a responsibility to make sure they, and their families, are treated with respect and that we do everything we can to reduce their increasing stress. That is why I voted to create an Office of Service Member Affairs within the Consumer Financial Protection Bureau to educate the men and women of our military, and their families, to make better informed financial decisions and to strengthen coordination of consumer protections for members of our military. We must crack down on those who are taking advantage of our military families and communities. However, I do not think we need a new regulatory structure to do so. A Washington regulatory agency is not the best suited to regulate outside of military bases in Maryland or North Carolina.

As I said on the floor when we began debate of this bill, now is our opportunity to pass real financial reform that puts in place the strongest consumer financial protections and ensures the greed of Wall Street doesn't trump the needs of Main Street. That is why I support the House provision on the regulation of auto dealers.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, how much time remains for my friend from Kansas?

The PRESIDING OFFICER. There is 1 minute 56 seconds.

Mr. DODD. Mr. President, let me begin by saying that SAM BROWNBACK and I are good friends. We have a different point of view in this matter. But that in no way at all should be reflected in our relationship with each other, as we have served together for many years. I fundamentally disagree with him about this.

Instructing conferees is an interesting motion in many ways. As we will be going to conference with the other body, I will be delighted to listen to these various ideas. But this is a matter which does deserve to be protected.

First of all, let me say that when it comes to automobile dealers, they are no different than community banks or other financial institutions; the overwhelming majority are good people and do a good job. But we do not pass laws in this country because a majority of the people commit crimes. We pass laws for the minority who can abuse their relationship with customers or with people. That is no different in this particular case at all.

So this is not about whether you like automobile dealers or do not like them. The simple question is: The second largest purchase that most Americans make is the purchase of an automobile. We do not buy stocks. We do not buy fancy institutions and so forth. We buy a home and we buy an automobile, and they are expensive undertakings.

So the question is very simply: We have established in our legislation, for the first time in the history of our country, a Consumer Financial Protection Bureau that will watch out for the average American citizen when it comes to financial practices. We have a Consumer Product Safety Commission. We have the Food and Drug Administration which protects you against products that you ingest, so you have some ability to respond if they do you harm.

If you buy a lawn mower or you buy any other consumer product, we have a place you can go to get a recall when that product does injury or could do injury to you. Yet we have no place in this country, where you can be ruined by a financial product, to get you any redress.

So this legislation, for the first time in our Nation's history, establishes a Consumer Financial Protection Bureau to watch out for bad mortgages, car loans, watch out for other financial activities in which the average individual may engage.

As I said, one of the most principal activities that people engage in as consumers is the purchase of an automobile. So we are trying to protect people. If we are going to say to community banks and to credit unions and other financial institutions: You must comply with these rules, they will be

enforced at the local level. But you have a community bank on one corner, a credit union on the other corner and a car dealer on the third corner and all three would like to compete for that business. To the credit union and the community bank we say: You have to comply with rules that protect consumers. But you, Mr. Auto Dealer over here, you do not have to do that. You can go off and do exactly as you want.

That is a mistake and why we have insisted that these provisions include automobile dealers. So I rise in opposition to this proposal.

A lot is said in this body about our men and women who serve in uniform. We all believe that, just as those heroes stand for us every single day, in bodies such as this we ought to stand for them. I wish to focus my remarks on what happens to men and women in uniform today because it is that constituency alone that ought to be reason to defeat this motion.

As we considered financial reform, then, we strove to heed the words of groups such as 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, including such groups as the Veterans of Foreign Wars, the National Guard Association, the Military Officers Association, the Military Order of the Purple Heart, and many others.

All these groups have written a letter in which they say, in part: The most significant financial obligation for the majority of servicemembers is auto financing.

It is also the place where servicemembers are most likely to be taken advantage of. Recently, the New York Times reported on one case, that 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 for Afghanistan.

According to the story in the press, Specialist Garcia, stationed at Fort Hood, TX, bought an automobile at a used car lot, signed up for a loan at a 19.9 percent interest rate. That would be bad enough, but that is not the worst of it, the high rate of interest. The problem came when Specialist Garcia drove the car home.

The dealer called Specialist Garcia several days later to say the financing contract had actually fallen through and demanded an additional \$2,500 in cash from Specialist Garcia. To make sure he paid up, the dealer blocked the soldier's car so no one could leave.

That is the way some—a few but some—auto dealers are treating our men and women in uniform. It is not enough that I tell you this story or one story in the press account. Under Secretary of Defense Stanley—in fact, my good friend, Senator BROWNBACK, quoted from the letter from Clifford Stanley. But listen to the operative sentence in the letter from Under Secretary Stanley:

The Department's position as stated in my letter to Assistant Secretary Barr remains unchanged. The Department of Defense would welcome and encourage the CFPA protections for Servicemembers and their families with regard to unscrupulous automobile sales and financing practices provided such protections would not limit access to legitimate products.

Which they do not at all. So we are hearing from Under Secretary of Defense Stanley, in which he says: "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 their real cost, and discriminatory lending are the kinds of problems members of our Armed Forces and their families face when dealing with financing their cars with car dealers.

In fact, Secretary Stanley reports that 72 percent of military counselors and attorneys surveyed had cited problems with auto dealer abuses in just the past 6 months alone, 72 percent cited it as a major problem. The Department of Defense is telling us that our men and women in uniform are at risk of being ripped off, as they are every single day.

That is why, of course, we adopted, 98 to 1, by the way, the amendment offered by SCOTT BROWN, our colleague from Massachusetts, and JACK REED, our colleague from Rhode Island. That amendment said we must have an office of servicemember affairs in the consumer bureau. Why did we establish that office there? What is the principal obligation that these service men and women get into that causes so much difficulty? It is automobiles sales. That is why we put it in.

What an irony it would be that we vote 98 to 1 to say we ought to establish that office within the consumer financial bureau and then turn around and adopt the Brownback amendment or insist upon it in a conference report, which basically exempts every one of these auto dealers from having to comply with the consumer protection laws. That would be an irony beyond ironies in a way, to on one hand say: We want to help you and protect you and then, on the other hand, take away the major organizations out there that do the most damage to them.

The Brownback motion would steal away this protection from our Armed Forces by creating a loophole for the exact sector of the financial services industry in which servicemembers are most vulnerable, and that is in auto sales. Let me be clear. All of us have relationships with auto dealers. I have a wonderful relationship with the people in my State of Connecticut whom I have worked closely with over the years.

All of us support those businesses. As I said at the outset of these remarks, the overwhelming majority of them do a good job and do not engage in unscrupulous behavior. But the laws are not written for the many, they are written for the few out there who do take ad-

vantage of these young men and women.

As we know from the evidence supplied by our military organizations and others who have written, rarely do they ever get involved in a matter such as a Banking Committee matter, to have the Under Secretary of Defense, the Secretary of the Air Force, the Secretary of the Army, the Veterans of Foreign Wars, the Order of the Purple Heart, and the Officers Association, all of them, 30 organizations saying: Do not do this.

Yet we are about to turn around and undo the efforts we have made to see to it that these young men and women, whom we all talk about in Memorial Day speeches, and so forth—what a great job they do for our country, and then turn around, in the one area they get taken to the cleaners on day after day, which is in this one particular area, and to exempt them entirely from the consideration of the Consumer Financial Protection Bureau.

The community bankers oppose this. The credit unions oppose this as well. They want a level playing field. They would like to compete for that business. They have to comply with the rules. How can you turn around and say to that community bank or that credit union: You have to live with these rules, but the guy on the other corner does not have to do so. How is that fair when it comes to financing, as I said have said, the second largest purchase that anyone would make, that most people make in their lives?

So it is unfair, it seems to me, to have two sets of rules for the same product. That is what we would be doing if this amendment were adopted, and, of course, the conferees were required to insist upon supporting language in the House bill. Military leaders such as Michael Donley, the Secretary of the Air Force, support this approach because, in his words:

Protection from unprincipled automobile lending enables our Airmen to concentrate on their primary mission—to fly, fight and win in air, space, and cyberspace.

Advocates such as Holly Petraeus, wife of GEN David Petraeus, the director of the Better Business program for military families, at a press conference, strongly supports the protections we have in this bill. They know the hardships military families face and believe it should not be compounded by shady lenders.

By the way, it is not just our servicemembers who suffer from lending abuse in this sector as well. There is a long and sad history of racial discrimination in auto lending. For example, African-American borrowers who are charged more than 2.5 times the amount in subjective rate—

The PRESIDING OFFICER. The Senator's time on the motion has expired.

Mr. DODD. I ask unanimous consent for 1 additional minute and provide 1 additional minute for my friend from Kansas as well.

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

Mr. DODD. Let me, if I can, because my friend from Kansas cited this, about separating out the financing from the lenders. There was a court case. Listen to what one of these witnesses, involved in that distinction, had to say. Some argue that auto dealer financing operations are not the lenders, they are merely processing the paperwork.

According to court testimony of a former finance and insurance manager from a Tennessee auto dealer:

The standard industry practice is to prepare the 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. 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 their interest rates.

This is not a time to do so much damage, in my view, to these young men and women in uniform.

I ask unanimous consent that several letters we have from the various military organizations in opposition to the Brownback amendment be printed in the RECORD.

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

INDEPENDENT COMMUNITY
BANKERS OF AMERICA®,
Washington, DC, May 11, 2010.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Banking, Housing and
Urban Affairs, Washington, DC.

Hon. RICHARD C. SHELBY,
Ranking Member, Committee on Banking, Housing
and Urban Affairs, Washington, DC.

DEAR CHAIRMAN DODD AND SENATOR SHELBY: On behalf of the Independent Community Bankers of America and its nearly 5,000 member banks, I write to oppose Sen. Brownback's amendments SA 3789 and SA 3790 to the Restoring American Financial Stability Act of 2010 to exempt most automobile dealers from the jurisdiction of the proposed Consumer Financial Protection Bureau (CFPB).

ICBA believes the CFPB should be focused on the under-regulated financial services providers rather than highly-regulated community banks. When automobile dealers offer financing to customers—generally as a conduit for manufacturers' captive finance arms—the dealers provide consumers loans and leases that are second only to home mortgages in importance to most families. Yet, their financing activities are not subjected to the same level of regulatory scrutiny as the auto lending activities of community banks. Exempting automobile dealers would create a gaping loophole in the CFPB and would give automobile dealers—as well as the manufacturers' captive finance arms that provide financing through them—a competitive advantage over community banks and reduce consumer choice in auto loans.

I urge you to oppose exemptions to the CFPB for non-depository lenders, including automobile dealers.

Thank you for your consideration.

Sincerely,

CAMDEN R. FINE,
President & CEO.

THE MILITARY COALITION,
Alexandria, VA, April 15, 2010.

Hon. CHRISTOPHER J. DODD,
Chairman, Banking, Housing & Urban Affairs,
Washington, DC.

Hon. RICHARD C. SHELBY,
Ranking Member, Banking, Housing & Urban
Affairs, Washington, DC.

DEAR CHAIRMAN DODD AND RANKING MEMBER SHELBY: The Military Coalition, a consortium of nationally prominent military and veterans organizations, representing more than 5.5 million current and former servicemembers and their families and survivors, would like to express our opposition to Senator Brownback's amendment to the Restoring American Financial Stability Act of 2010. Senator Brownback's amendment would exclude auto dealers and their lending practices from the financial reform bill.

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

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.

In a recent letter from the Under Secretary of Defense for Personnel and Readiness (USD P&R) to the Department of the Treasury's Assistant Secretary for Financial Institutions (attached), Dr. Clifford Stanley states that the Department of Defense would welcome protections provided to servicemembers and their families with regard to unscrupulous automobile sales and financing practices.

Additionally, Dr. Stanley highlights the extent of the problem in a recent informal polling of installation attorneys and personal financial managers/counselors. Of the 659 counselors and attorneys who responded, 72% stated that they counseled servicemembers in the past six months on one or more unscrupulous practices (e.g., "bait and switch" financing, falsification of loan documents, failure to pay-off liens, and "packing loans") when covering auto financing with their client.

Again, the Coalition wishes to reiterate our collective opposition to any "carve-out" of auto dealership financing from the financial reform bill and we thank you for your attention to this important issue impacting military members and their families.

Sincerely,

Air Force Association, Air Force Sergeants Association, Air Force Women Officers Associated, American Logistics Association, AMVETS (American Veterans), Army Aviation Association of America, Association of Military Surgeons of the United States, Association of the United States Army, Association of the United States Navy, Chief Warrant Officer and Warrant Officer Association, U.S. Coast Guard, Commissioned Officers Association of the U.S. Public Health Service, Inc., Enlisted Association of the National Guard of the United States, Fleet Reserve Association, Gold Star Wives of America, Inc., Iraq & Afghanistan Veterans of America, Jewish War Veterans of the United States of America, Marine Corps League, Military Chaplains Association of the United States of America, Military Officers Association of America, Military Order of the Purple Heart, National Guard Association of the United States, National Military Family Association, National Order of Battlefield Commissions, Naval Enlisted Reserve Association, Non Commissioned Officers Association, Re-

serve Enlisted Association of the United States, Society of Medical Consultants to the Armed Forces, The Retired Enlisted Association, United States Army Warrant Officers Association, United States Coast Guard Chief Petty Officers Association, Veterans of Foreign Wars of the United States.

MAY 19, 2010.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: We are writing to voice our opposition to the modified version of Senator Brownback's Amendment #3789, which would exempt auto dealers from the Consumer Financial Protection Bureau. The changes made to the amendment do nothing to stop automobile dealers from engaging in fraudulent or abusive practices. Instead, the revised amendment provides financial education for military families who are targeted by unscrupulous dealers with these tactics.

While good financial counseling can help consumers make smart purchasing decisions, it is no substitute for vigorously enforcing the law to prevent unfair and deceptive practices. In fact, the modified Brownback Amendment #3789 would shift the burden onto the military and individual Service members to avoid being defrauded by car dealers, rather than protecting our troops and all Americans with a new consumer agency that polices auto dealer financing and enforces already existing consumer protection laws.

Senator Brownback's modification requires the Federal Reserve and the Federal Trade Commission—two agencies that to date have failed to adequately protect consumers from abusive auto lending practices—to work with the Office of Service Member Affairs to ensure that "Service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers." However, many of the scams perpetrated on our troops cannot be eliminated through education, since fraud by its very nature is designed to deceive and is often perpetrated without the consumer's knowledge or awareness. For example, some car dealers engage in "powerbooking," a scam in which the victim does not have access to the documents the dealer submits to the finance company and therefore has no knowledge of the phantom add-ons the auto dealer claims are part of the vehicle. Some dealers falsify loan applications, in which case the victim does not have access to the loan documents that falsifies pay stubs and statements of income. In another scam, the auto dealer promises to pay off the lien on the victim's trade-in at the time of sale, but does not, so the consumer is unknowingly left with the responsibility to pay off the new car as well as the car that was traded in. There is no way for the victim to know in advance that the dealer doesn't intend to pay off the lien. Senator Brownback's modified amendment would do nothing to stop these abuses.

The modified Brownback Amendment maintains the status quo that has failed to adequately protect U.S. troops and the American consumer from auto scams up until now. The Office of Service Member Affairs would in no way have the authority to actually require the Federal Reserve to issue meaningful new rules and/or require the FTC to enforce the already existing rules.

We urge the Senate to vote no on the Brownback auto dealer exemption.

Sincerely,

FLEET RESERVE
ASSOCIATION.
MILITARY OFFICERS
ASSOCIATION OF AMERICA.

NAVY MARINE CORPS
RELIEF SOCIETY.
CENTER FOR RESPONSIBLE
LENDING.
CONSUMER FEDERATION OF
AMERICA.
NATIONAL ASSOCIATION OF
CONSUMER ADVOCATES.
NATIONAL CONSUMER LAW
CENTER (ON BEHALF OF
ITS LOW-INCOME CLIENTS).

CREDIT UNION
NATIONAL ASSOCIATION,
Washington, DC, May 10, 2010.

Hon. CHRISTOPHER DODD,
*Chairman, Committee on Banking, Housing and
Urban Affairs, U.S. Senate, Washington,
DC.*

Hon. RICHARD SHELBY,
*Ranking Member, Committee on Banking, Hous-
ing and Urban Affairs, U.S. Senate, Wash-
ington, DC.*

DEAR CHAIRMAN DODD AND RANKING MEM-
BER SHELBY: On behalf of the Credit Union
National Association (CUNA), I am writing
in opposition to the Brownback amendments
(SA 3789 and SA 3790) to S. 3217, the Restor-
ing American Financial Stability Act, which
would exempt auto dealers from the bill.
CUNA is the largest credit union advocacy
organization in the United States, rep-
resenting nearly 90 percent of America's 7,800
state and federally chartered credit unions
and their 92 million members.

As we have said from the beginning of this
debate, consumers of financial products pro-
vided by unregulated entities need greater
protections. One of the ways that the legisla-
tion seeks to provide these greater protec-
tions is through the creation of the Bureau
of Consumer Financial Protection (BCFP),
which is intended to be the exclusive federal
rulemaking entity for laws designed to pro-
tect consumers of financial products. Ex-
cluding any non-depository institution pro-
vider of financial products, including auto
dealers, from the rules promulgated by the
BCFP would defeat the purpose of creating
the new consumer regulator, would put cred-
it unions at a competitive disadvantage in
the new regulatory regime, and could cause
confusion for consumers of financial prod-
ucts.

We encourage the Senate to reject amend-
ments, including the Brownback amend-
ments, which would upset the balance of the
consumer protection title by exempting any
currently unregulated providers of financial
services from the Bureau's rules.

On behalf of America's credit unions,
thank you very much for your consideration.
Sincerely,

DANIEL A. MICA,
President & CEO.

SECRETARY OF THE ARMY,
Washington, DC, May 12, 2010.

Hon. CHRISTOPHER DODD,
*Chairman, Committee on Banking, Housing and
Urban Affairs, U.S. Senate, Washington,
DC.*

DEAR MR. CHAIRMAN: I am writing regard-
ing the legislation before the Senate which
would establish the Consumer Financial Pro-
tection Agency (CFPA) and delineate the
limits of its authority.

I understand that an amendment may soon
be introduced that would exempt automobile
dealerships from any financial oversight
under the CFPB. The Army would have
strong concerns with any such amendments.

Over the years, many of our Soldiers have
fallen victim to predatory lending practices
and have entered into contracts for prohibi-
tively expensive financial products promoted
by some unscrupulous car dealerships and
lenders. Though the Army does educate our

Soldiers about buying cars in our normal fi-
nancial education curriculum, the fact re-
mains that junior enlisted Soldiers—many of
whom are drawing a regular paycheck for
the first time in their lives and are inexperi-
enced in financial matters—remain an easy
target for dishonest brokers. We owe them
the protection and oversight that would be
afforded by the CFPB.

In an era of persistent conflict and mul-
tiple deployments, our Soldiers and their
Families are under increasing stress. In sur-
veys conducted by the Department of De-
fense, finances rank among the primary
causes of stress for most military Families.
As auto loans are often the most significant
financial obligations of our Soldiers—par-
ticularly within the junior enlisted grades—
we believe that greater government over-
sight of auto financing and sales for our Sol-
diers will help protect them and reduce un-
necessary financial strain on our already
overburdened Army Families.

Soldiers who are distracted by financial
issues at home are not fully focused on fight-
ing the enemy, thereby decreasing mission
readiness. Protection from unprincipled auto
lending enables our Soldiers to concentrate
on their primary mission—protecting our
great Nation.

Thank you for your continued support of
our Soldiers and their Families.

Sincerely,

JOHN M. MCHUGH.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, May 12, 2010.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: On behalf of the National
Council of La Raza (NCLR)—the largest na-
tional Latino civil rights and advocacy orga-
nization in the United States—I urge you to
oppose Senator Carper's (D-DE) Amendment
#3949 to the "Restoring American Financial
Security Act of 2010" (S. 3217). Amendment
#3949 undermines sustainable and meaning-
ful consumer protection. We call on the Sen-
ate to vote for ordinary families who benefit
from having extra cops on the beat, rather
than for banks seeking to avoid enforcement
for violations of consumer protection, equal
credit, and fair lending laws.

Communities of color have been hit hard
by predatory lending in all forms. Now our
families are struggling with rising household
debt, record-high foreclosure rates, and the
erosion of their financial safety net. They
need a strong Consumer Financial Protec-
tion Bureau (CFPB) to level the playing field
by enforcing our nation's consumer protec-
tion laws. Moreover, since individuals will
not have a right to enforce the CFPB rules
themselves, they will need law enforcement,
including their state attorneys general, to
enforce the rules.

The Carper amendment raises two serious
concerns:

1. Attorney General Enforcement—The
amendment takes state cops off the predat-
ory lending beat, weakening the already
compromised enforcement provisions in the
bill. It would prevent state attorneys general
from enforcing CFPB rules against national
banks and federal thrifts and could weaken
their ability to enforce other laws. Under an-
other provision of the bill, the CFPB will
have no enforcement authority against 98%
of banks, making it that much more critical
that attorneys general be able to enforce the
federal rules on behalf of the state's resi-
dents. This amendment would leave enforce-
ment for most banks entirely up to bank reg-
ulators, whose lax enforcement led to this
crisis in the first place.

2. State Law Preemption—The amendment
would prevent states from addressing new
bank abuses not yet covered by federal pro-

tection before they spread nationally. It
would remove a critical provision that re-
quires the Office of the Comptroller of the
Currency (OCC) to consider whether a state
law addresses problems not covered by fed-
eral law before it gives banks a free pass to
ignore that law. The Senate compromise pro-
vision in the bill already gives the OCC, an
agency with a history of open hostility to
consumer protection, far too much power to
wipe out state consumer protection laws.
The provision should not be weakened fur-
ther.

States are first responders that can stop
local abuses from spreading to become a na-
tional problem. Their laws are most impor-
tant when there is a gap in federal law.
Moreover, before bringing an enforcement
action, attorneys general already must con-
sult with the CFPB and bank regulators, and
the CFPB may intervene or clarify its rules,
ensuring consistency in enforcement stand-
ards.

Anyone who violates the law should be
held accountable. Do not give banks that
violate specific CFPB rules a special pass
against vigilant enforcement. Should you
have any questions, please contact Graciela
Aponte, Wealth-Building Legislative Ana-
lyst.

Sincerely,

JANET MURGUÍA,
President and CEO.

The PRESIDING OFFICER. The Sen-
ator from Kansas.

Mr. BROWNBACK. Mr. President,
well, if this motion to instruct did
what Senator DODD had suggested, I
would probably vote against it as well.
It does not.

I appreciate my colleague from Con-
necticut, who is obviously a great per-
suader, does a great job, and whom I
share a great friendship with and great
admiration for and who has served this
body very well.

The problem is, if we have three
places sitting here—we have a commu-
nity banker, we have a credit union,
and we have an auto dealer—all three
are still covered. They are all three
still covered if they make the loan. If
they originate, if they make the loan,
they put the money out there, all three
are covered.

What we are saying in this motion is,
if it is your money that you are loan-
ing, you are covered. But if you are
simply writing paper or trying to help
someone upstream and options for the
person who is coming in and you are
saying: We have option A, B or C, from
this credit union, from that bank or
from GMAC, whichever it may be, they
are not covered.

The authors of the bill want to put
belts and suspenders on auto financing.
Why would we double regulate in this
particular area when we are already
going to have the cost and the burden
of doing it? And on top of all that, we
already have a set of regulations in
this field.

My colleague talked about yo-yo and
bait-and-switch financing. They are il-
legal at the State level now. State at-
torneys general are going after these
people now, and they should, particu-
larly if it targets military personnel.
That person who walks into a dealer-
ship in my State or some other State

will be covered by the Consumer Financial Protection Bureau. It is going to be at an upstream location, but it is covered. One hundred percent of them are covered. Why would we put this extra cost and expense on the retail operation that is not loaning the money? They are not doing this.

If my colleagues are concerned about this area, do this. If they are concerned about having overregulation and overreach by Washington, support my motion. The loan is still covered, and we are not having this double coverage of belts and suspenders on auto loans that is going to hurt the ability of people to get loans, and it is going to drive up the cost of auto financing. It is going to hurt Main Street businesses that we lost 1,700 of last year and that lost us 88,000 jobs. I thought this bill was targeted at Wall Street, not at Main Street where we didn't have this problem going on. We haven't had this problem within auto loans as far as causing the financial meltdown. The regulation is already there. The regulation will be there. This extra regulation is not needed.

I ask my colleagues to support Main Street on this one. Support the local auto dealers out there, those who are working with the community, trying to help the community thrive and survive, instead of putting a double dose of regulation on top of them that is going to hurt the business, hurt auto sales, hurt financing opportunities.

I urge support for the Brownback motion.

The PRESIDING OFFICER. The Senator from Texas.

Mr. DODD. All time has expired on BROWNBACK?

The PRESIDING OFFICER. All time has expired.

MOTION TO INSTRUCT CONFEREES

Mrs. HUTCHISON. I call up the Hutchison-Hagan motion to instruct conferees.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

MOTION TO INSTRUCT CONFEREES

The Senator from Texas (Mrs. HUTCHISON) moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on H.R. 4173 (the Restoring American Financial Stability Act) be instructed to insist that the final conference report ensure that proprietary trading restrictions do not prevent insurance company affiliates of depository institutions from engaging in such trading as part of the ordinary business of insurance, especially insurance company affiliates serving military service members and their families, as such restrictions would result in higher costs and significant inconveniences to those sacrificing in service to our country.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mrs. HUTCHISON. I ask to be notified at the end of 5 minutes so I may yield the floor to Senator HAGAN for the rest of the time.

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

Mrs. HUTCHISON. Mr. President, the Hutchison-Hagan motion to instruct is trying to narrow the definition that falls under the Volcker rule and the underlying bill. I believe our amendment would have passed overwhelmingly if we had been able to get it up before cloture was invoked. I appreciate there was a lot going on last week, but this is the way we hope to be able to assure that our amendment is a part of the final bill. The Volcker rule contained in the measure before us seeks to restrict or ban risky proprietary trading at depository institutions. As currently written, the rule brings about some unintended consequences that could be disastrous for our financial system and to a special class of customers—American service men and women. The major problem with the current language is that its reach extends beyond the bounds of the depository institution to a bank's affiliates and subsidiaries, including insurance companies. For diversified financial institutions that serve as one-stop shops of banking and insurance products, especially those serving our military service men and women and their families, the extension of the Volcker rule's proprietary trading restrictions to a depository institution's insurance company affiliates threatens their ability to address the special financial needs of the U.S. military community. The Hutchison-Hagan motion to instruct conferees seeks to ensure that the Volcker rule's proprietary trading restrictions do not extend to the normal operations of insurance affiliates of insured depository institutions so that we can preserve convenient access to the full spectrum of financial services for the U.S. military community.

It is important to note that the proprietary trading that insurance entities engage in is significantly different from the proprietary trading that is the target of the Volcker rule.

First, insurance companies use premiums to fund trades, not customer deposits. Thus, insurers are trading their own funds, not those of depositors. Insurance company trades are generally low risk, focus on long-term payment of claims and profitability, and are already heavily regulated by State insurance regulators. Simply put: Proprietary trading is essential to the life insurance and property and casualty insurance business. Proprietary trading is what allows insurers to offer annuities and other insurance products that can protect consumers in the long term.

The motion to instruct is narrowly drafted. We have worked with the majority staff as well as the minority staff of the Banking Committee to assure that the drafting is in line with what we all intend to do. It doesn't speak to the Volcker rule's impact on depository institutions at all. It merely seeks to allow regulated insurance entities to continue to operate as they currently do in a manner that ensures

payment of claims and annuities for years to come.

I urge my colleagues to support the Hutchison-Hagan motion. We have worked on this for several weeks together. I believe this bipartisan motion to instruct will be overwhelmingly approved because so many people have heard from their constituents.

I ask unanimous consent to have printed in the RECORD a letter from the Non Commissioned Officers Association of the United States of America, the Air Force Sergeants Association, the Naval Enlisted Reserve Association, and the TIAA CREF, a national financial services organization dedicated to serving the financial needs of those who work in the academic, medical, and cultural fields, all in support of our amendment and our motion to instruct.

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

NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA,

Selma, TX, May 3, 2010.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

Hon. RICHARD C. SHELBY,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD AND RANKING MEMBER SHELBY: I write on behalf of the Non Commissioned Officers Association of the United States of America (NCOA), representing active duty, enlisted service members of all military services, the United States Coast Guard, associated Guard and Reserve Forces, retirees and veterans of all components. NCOA has strong concerns regarding the impact of the Restoring American Financial Stability Act of 2010's (S. 3217) "Volcker Rule" provisions on NCOA members and for that matter, the entire U.S. military community.

NCOA is dedicated to providing for service members and their families through every stage of their military career from enlistment to eventual separation, retirement and continuing to provide services to veterans' surviving family members. We understand and respect the achievements and sacrifices made by all service members and their families and are committed to ensuring that the military community has access to the "one stop shop" providers of financial services necessary to address their unique banking and insurance needs. This ease of access to essential financial resources is crucial to minimize the financial stresses and other burdens accompanying military life.

S. 3217's Volcker Rule, as currently proposed, threatens this essential access to one stop shop providers of financial services for NCOA members and their families. Limiting the provision's proprietary trading restrictions by excluding the insurance affiliates of insured depository institutions is necessary to maintain access to financial products and services that meet the unique needs of the military community. Making this small change to the Volcker Rule language will ensure that the financial stability of enlisted service members and their families is not put in jeopardy. Thank you for your thoughtful consideration of this issue and its

impact on NCOA members and the entire U.S. military community.

Sincerely,

H. GENE OVERSTREET,
12th Sergeant Major of the
United States Marine Corps (Ret.), President.

AIR FORCE

SERGEANTS ASSOCIATION,
Temple Hills, MD, April 29, 2010.

Hon. CHRISTOPHER DODD,

Chairman, Committee on Banking, Housing,
and Urban Affairs, U.S. Senate, Wash-
ington, DC.

Hon. RICHARD C. SHELBY,

Ranking Member, Committee on Banking, Hous-
ing and Urban Affairs, U.S. Senate, Wash-
ington, DC.

DEAR CHAIRMAN DODD AND RANKING MEM-
BER SHELBY: I am writing on behalf of the
Air Force Sergeants Association (AFSA), the
global, 120,000 member strong organization
dedicated to all enlisted grades of Air Force
Active Duty, Air National Guard, and Air
Force Reserve Command, retired, veteran
and family members. AFSA has strong con-
cerns regarding the impact of the so called
"Volcker Rule" provisions in the American
Financial Stability Act of 2010, S. 3217, on
AFSA members and the entire enlisted mili-
tary community.

AFSA members and their families have
made many sacrifices in order to invest their
lives in the cause of freedom. They require
access to "one stop shop" providers of finan-
cial services to address their unique banking
and insurance needs. Ease of access to essen-
tial financial resources is particularly cru-
cial today as our American military commu-
nity faces the financial stresses and other
burdens accompanying multiple deployments
and frequent and costly relocations during
times of active conflict. S. 3217's Volcker
Rule provisions, as currently drafted, will
prevent financial services providers from of-
fering both banking and insurance products
to AFSA members and their families tai-
lored to their specific financial needs.

Making a small change to the bill's current
language to ensure the Volcker Rule's pro-
prietary trading restrictions are not ex-
tended to the insurance affiliates of insured
depository institutions would allow one stop
shop providers of financial products and
services to continue meeting the unique
needs of the military community. If the lan-
guage is not corrected, this ease of access to
important financial resources by American
servicemen, women and their families will
be in jeopardy. Thank you for your thoughtful
consideration of this issue and its impact on
AFSA's membership and the entire U.S.
military community.

Sincerely,

JOHN R. "DOC" MCCAULIN,
CMSgt, USAF, Retired, Chief Executive
Officer.

NAVAL ENLISTED RESERVE ASSOCIATION,
Falls Church, VA, May 5, 2010.

Hon. CHRISTOPHER DODD,

Chairman, Committee on Banking, Housing and
Urban Affairs, U.S. Senate, Washington,
DC.

Hon. RICHARD C. SHELBY,

Ranking Member, Committee on Banking, Hous-
ing and Urban Affairs, U.S. Senate, Wash-
ington, DC.

DEAR CHAIRMAN DODD AND RANKING MEM-
BER SHELBY: I am writing on behalf of the
Naval Enlisted Reserve Association (NERA),
a voluntary, nonprofit organization of active
duty and retired enlisted reservists and
other dedicated persons committed to pro-
moting and maintaining the Navy Reserve,
United States Marine Corps Reserve, and
United States Coast Guard Reserve. NERA
has strong concerns regarding the impact of

the Restoring American Financial Stability
Act of 2010's (S. 3217) "Volcker Rule" pro-
visions on NERA members and the entire U.S.
military community.

NERA is dedicated to protecting the indi-
vidual rights, benefits, and privileges our
American servicemen and women have
earned through their commitment to mili-
tary service and their access to "one stop
shop" providers of financial services that un-
derstand their unique banking and insurance
needs. Ease of access to essential financial
resources for active duty and retired enlisted
reservists and their families is crucial to
minimizing the financial stresses and other
burdens accompanying military life.

S. 3217's Volcker Rule provisions, as cur-
rently drafted, threaten this essential access
to comprehensive financial services for
NERA members and the entire enlisted com-
munity. Making a small change to the
Volcker Rule language to ensure that the
proprietary trading restrictions are not ex-
tended to the insurance affiliates of insured
depository institutions would allow one stop
shop providers of financial products and
services to continue meeting the financial
needs of NERA members and their families.

If the Volcker Rule language is not cor-
rected, the entire military community's ac-
cess to essential financial resources will be
in jeopardy. Thank you for your thoughtful
consideration of this issue.

Sincerely,

SENIOR CHIEF NICK MARINE,
U.S. Navy (Ret.)
National President.

TIAA-CREF,
Washington, DC, May 24, 2010.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate,
Washington DC.

DEAR SENATOR HUTCHISON: On behalf of
TIAA-CREF, a national financial services or-
ganization dedicated to serving the financial
needs of those who work in the academic,
medical, and cultural fields, I write to ex-
press our support for your amendment (SA
4055) to the financial services regulatory re-
form legislation, which is likely to be offered
as a motion to instruct conferees on Monday,
May 24th.

TIAA-CREF is pleased to serve 3.7 million
individual participants, and we endeavor to
assist them to and through retirement. Pas-
sage of your amendment will send a strong
message that insurers should continue to be
able to make appropriate investments on be-
half of their participants to adequately pro-
vide for their retirement savings.

Thank you for proposing this significant
improvement to the legislation. If our com-
pany can be of additional assistance to you
or your staff in this endeavor, please do not
hesitate to contact me or Langston Em-
erson, Director of Federal Government Rela-
tions.

Sincerely,

DANIEL J. KENIRY,
Senior Vice President, Government Relations.

The PRESIDING OFFICER. The Sen-
ator from North Carolina.

Mrs. HAGAN. Mr. President, I rise in
support of the motion to instruct of-
fered by my colleague from Texas, Sen-
ator HUTCHISON. I thank the Senator
from Texas for her leadership on this
issue of importance to members of the
military in our States and across the
country. Section 619 of the Restoring
American Financial Stability Act of
2010 bans certain activities not only at
depository institutions but also at
bank affiliates, including insurance af-
filiates. In doing so, section 619 inad-

vertently jeopardizes access to the im-
portant financial resources offered by
diversified financial institutions to
service men and women and their fami-
lies. Section 619 bans proprietary trad-
ing, but proprietary trading by insur-
ance entities is significantly different
than the risk that comes with banks'
proprietary trading. Insurance compa-
nies use premiums to trade funds, not
the consumer deposits that this provi-
sion targets. Insurance trades are gen-
erally low risk and focus on long-term
payment of claims and are already
heavily regulated by State insurance
regulators.

Servicemembers and their families
rely on the ability of diversified finan-
cial service firms to provide both in-
surance and banking services under one
roof. I am concerned that section 619
may force military members to change
their current financial service pro-
viders and possibly subject the service
men and women to unnecessary cost
and burdens. That is why Senator
HUTCHISON and I have worked for sev-
eral weeks to correct this oversight,
and why I introduced amendment 3799
with Senators HUTCHISON, CARPER,
CORNBY, BEGICH, WEBB, BURR, and
ISAKSON. Amendment 3799 was a narrow
change that addressed the issue. To my
knowledge, it was not opposed by any-
one. While amendment 3799 was not
voted on, Senator HUTCHISON's motion
to instruct provides clear guidance to
the conferees to ensure that propri-
etary trading restrictions do not pre-
vent insurance company affiliates of
depository institutions from engaging
in such trading as part of the ordinary
business of insurance.

It is critical that we adopt this mo-
tion so that diversified financial insti-
tutions may continue to provide low-
cost and convenient access to diversi-
fied financial services for those sacri-
ficing in service to our country. I urge
my colleagues to vote yes on this mo-
tion.

I yield the floor.

The PRESIDING OFFICER. The Sen-
ator from Connecticut.

Mr. DODD. Mr. President, I commend
both of my colleagues, Senator
HUTCHISON and Senator HAGAN, my
good friends from Texas and North
Carolina. They have done a great job
and deserve our thanks for the work
they have put into this proposal. I am
supportive of the motion to instruct.
As a conferee, I will have something to
say about this, I presume, in the con-
ference. I thank them for their efforts.
They have laid this out pretty well. I
don't need to take a lot of time. I have
some further remarks that lay out why
I think this is a good proposal. I ap-
preciate very much their efforts in this re-
gard.

I am prepared to yield back time on
this matter and urge colleagues to sup-
port the Hutchison-Hagan motion to
the financial reform package. It is a
good proposal, one that deserves all of
our support.

The PRESIDING OFFICER. The Sen-
ator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the committee. He has been supportive of this amendment from the beginning. Senator HAGAN and I can say that we have regularly communicated with the chairman, and maybe he would even consider that we have hounded him to death. But nevertheless, I know he was helping us all along. We worked on the drafting to assure that the language met both the minority and majority requirements. I am pleased he has worked with us on this amendment. I thank Senator HAGAN as well for being such a staunch cosponsor of this amendment.

I yield back my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DODD. Have the yeas and nays been ordered on both motions?

The PRESIDING OFFICER. They have not.

Mr. DODD. I don't see my colleague from Kansas but I know he wants the yeas and nays.

I ask for the yeas and nays on the Brownback motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DODD. I ask for the yeas and nays on the Hutchison-Hagan motion.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mrs. HUTCHISON. Mr. President, I ask the distinguished chairman, when we start the vote at 5:30, it will be the Brownback motion first and then Hutchison-Hagan.

Mr. DODD. BROWNBACK would come first and then the Hutchison-Hagan motion.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

The question is on agreeing to the Brownback motion to instruct conferees.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Missouri (Mrs. MCCASKILL), the Senator from Oregon (Mr. MERKLEY), the Senator from New York (Mr. SCHUMER), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator

from Oklahoma (Mr. COBURN), the Senator from Georgia (Mr. ISAKSON) and the Senator from Mississippi (Mr. WICKER).

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

The result was announced—yeas 60, nays 30, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—60

Alexander	Enzi	Menendez
Barrasso	Graham	Mikulski
Bayh	Grassley	Murkowski
Begich	Gregg	Murray
Bennett	Hagan	Nelson (NE)
Bond	Hatch	Nelson (FL)
Boxer	Hutchison	Pryor
Brown (MA)	Inhofe	Reid
Brownback	Johanns	Risch
Bunning	Kerry	Roberts
Burr	Klobuchar	Rockefeller
Cardin	Kohl	Sessions
Cochran	Kyl	Shaheen
Collins	Landrieu	Shelby
Conrad	Lautenberg	Snowe
Corker	LeMieux	Specter
Cornyn	Lieberman	Thune
Crapo	Lugar	Vitter
DeMint	McCain	Voinovich
Ensign	McConnell	Wyden

NAYS—30

Akaka	Dorgan	Leahy
Baucus	Durbin	Levin
Bennet	Feingold	Reed
Bingaman	Feinstein	Sanders
Brown (OH)	Franken	Stabenow
Burris	Gillibrand	Tester
Cantwell	Harkin	Udall (CO)
Carper	Inouye	Udall (NM)
Casey	Johnson	Webb
Dodd	Kaufman	Whitehouse

NOT VOTING—10

Byrd	Lincoln	Warner
Chambliss	McCaskill	Wicker
Coburn	Merkley	
Isakson	Schumer	

The motion was agreed to.

Mr. BROWNBACK. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON HUTCHISON MOTION TO INSTRUCT

The PRESIDING OFFICER. The question is on agreeing to the motion to instruct, offered by the Senator from Texas. The yeas and nays have been ordered.

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), the Senator from Missouri (Mrs. MCCASKILL), the Senator from New York (Mr. SCHUMER), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. COBURN), the Senator from Georgia (Mr. ISAKSON), and the Senator from Mississippi (Mr. WICKER).

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

The result was announced—yeas 87, nays 4, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—87

Akaka	Ensign	McConnell
Alexander	Enzi	Menendez
Barrasso	Feinstein	Merkley
Baucus	Franken	Mikulski
Bayh	Gillibrand	Murkowski
Begich	Graham	Murray
Bennet	Grassley	Nelson (NE)
Bennett	Gregg	Nelson (FL)
Bingaman	Hagan	Pryor
Bond	Harkin	Reid
Boxer	Hatch	Risch
Brown (MA)	Hutchison	Roberts
Brown (OH)	Inhofe	Rockefeller
Brownback	Inouye	Sessions
Burr	Johanns	Shaheen
Burris	Johnson	Shelby
Cardin	Kaufman	Snowe
Carper	Kerry	Specter
Casey	Klobuchar	Stabenow
Cochran	Kohl	Tester
Collins	Kyl	Thune
Conrad	Landrieu	Udall (CO)
Corker	Lautenberg	Udall (NM)
Cornyn	Leahy	Vitter
Crapo	LeMieux	Voinovich
DeMint	Levin	Webb
Dodd	Lieberman	Whitehouse
Dorgan	Lugar	Wyden
Durbin	McCain	

NAYS—4

Bunning	Feingold
Cantwell	Sanders

NOT VOTING—9

Byrd	Isakson	Schumer
Chambliss	Lincoln	Warner
Coburn	McCaskill	Wicker

The motion was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FEINGOLD. Madam President, while I opposed the motion to instruct offered by the Senator from Kansas, Mr. BROWNBACK, I did so with reluctance. The vast majority of auto dealers in Wisconsin do not engage in the kinds of behavior that have been held up as a reason to oppose the Senator's motion, or the amendment he had previously offered to the financial regulatory reform bill. Our dealers are wonderful corporate citizens, who have contributed significantly to our communities and our State.

Some of that excellent track record stems from Wisconsin's tough consumer protection laws that not only safeguard consumers, but also protect those firms that treat their customers fairly from the fly-by-night operators who seek to gain a competitive advantage over honest dealers at the expense of the consumer. Had Wisconsin's consumer laws and history of vigorous enforcement been reflected in other States across the Nation, there would have been a stronger argument for carving out an exception in the bill for a specific set of firms, as is proposed by the motion to instruct.

Even though I opposed the motion to instruct, supporters of the motion are right when they note that auto dealers, who are almost uniformly small businesses, should not be treated the same as the large financial institutions that are the focus of much of this bill. That is why I supported the amendment offered by the Senator from Maine, Ms.