

send the money out to allow people to do auto loans and mortgage loans. That simply did not happen. There is plenty of finger-pointing going on as to why that did not happen, but the bottom line is that consumers were left to battle the credit crunch alone, and they felt abandoned in their fight. What did Washington expect when it gave away practically free money? From the get-go, the TARP rule book was simply tossed out the window. Since then, TARP has morphed in so many ways that most people cannot even remember, cannot even think about its original purpose.

The American people have unquestionably lost faith in the \$700-billion taxpayer-funded boondoggle. They expected it to get the economy up and lending. Now they feel duped, and I do not blame them. Instead of jump-starting lending in the economy, what this has turned into is a revolving slush fund for unrelated spending projects. It just goes on and on.

Let me run through a sample of what TARP has been used to fund:

No. 1, buy General Motors. Who knew that the U.S. Government would spend about \$50 billion of TARP buying not only an ownership interest in General Motors but a controlling interest? Back home in Nebraska, when I have talked to Nebraska citizens about this, I say to them: If I had come out during my campaign and suggested that the President of the United States would literally over a weekend have the ability to buy General Motors without any kind of congressional approval, no one—no one—would have believed me. Yet that is exactly what happened.

No. 2, there is a plan called cash for caulkers. We all know about that plan.

No. 3, the House passed a second stimulus—\$150 billion in TARP to fund more unrelated spending. Let me give a few examples: \$800 million for Amtrak; \$65 million for housing vouchers; \$500 million for summer youth employment; \$300 million for a college work study program.

No. 4, the doc fix—\$¼ trillion in TARP that will never be paid back, an immediate loss to the taxpayers.

No. 5, off-budget highway funding.

I could go on and on. The list just does not end. The projects being funded out of this now new slush fund do not seem to have an ending point. Some of these projects might be quite meritorious. One might look at them and say: Gosh, in the normal budgetary process, I would want to be a part of voting for those projects. I might support some of them in the normal budgeting process but not through some no accountability slush fund.

TARP has spiraled out of control, and it needs to end today—immediately. TARP was never intended to finance a wide array of spending programs where the taxpayer literally was going to be the loser. We must find a way to pay for government spending, not try to disguise it in TARP.

I am asking my colleagues to adopt the Thune amendment and end the no-

accountability TARP slush fund. This amendment would immediately stop the Treasury Department from spending more from the TARP funds. It would repeal the administration's ill-advised extension of TARP through October 2010. It would require TARP repayments to reduce our national debt. There would be no clever statutory interpretations to get around the debt reduction requirement. A payment comes in, the debt ceiling goes down. No more reckless spending. No more Russian roulette with taxpayers' money. Not only is this common sense, but it is good fiscal sense, and it is the right thing to do.

One thing is absolutely obvious: Taxpayers are asking us to work together to get deficit spending under control, to find solutions to problems that trouble this great Nation. This amendment, in my judgment, is absolutely the first step, a good start to get a handle on out-of-control spending, to start restoring faith with the American people. If TARP is ended, we show the American people that we are listening and that Congress is, in fact, serious about protecting taxpayers' money.

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

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

The bill clerk proceeded to call the roll.

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

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

#### TARP

Mr. DURBIN. Madam President, a speaker on the floor earlier—Senator JOHANNIS of Nebraska—was talking about TARP, and many of us recall this was a program started under the previous administration. President Bush and his Secretary of the Treasury, Henry Paulson, came to us, along with Federal Reserve Chairman Ben Bernanke, and basically told us America's economy and perhaps the global economy was on the edge of an abyss; that we could see what looked like an economic downturn turn into not only a recession but worse if we didn't act and act quickly.

The proposal they made was to go after what they called toxic assets, and so they created a program called the Toxic Assets Relief Program—TARP. They asked for some \$80 billion—an enormous sum of money—in order to go to financial institutions that were teetering on the brink of collapse and save them, in the hopes that in doing so, they could stabilize our economy.

Even though I took a few economics courses in college and have followed the course of American business, at least as a casual observer, it was hard to argue against their request because my fear was that failure to do anything would, in fact, bring this economy

down, costing us dramatic numbers of jobs and failures in the business community. So I voted for TARP. It seemed like one of the few things we could do that might have some chance of stabilizing the economy.

Of course, it is not the most popular program in America. The idea of taking hundreds of billions of dollars of taxpayers' money to give to banks and investment operations that have failed—literally to the point of failure—seemed to be a rescue effort for a group that doesn't usually garner much sympathy, in terms of the activities they are engaged in day to day. The money went to a large share of these banks and financial institutions, and the net result is, virtually all of them were saved from collapse—all but Lehman Brothers, which had failed before this request.

So the economy moved forward. Then the bankers repaid the effort of the American taxpayers by announcing—many of them—they now felt times were so good for them they could start declaring bonuses for their officers and their employees—bonuses.

In the real world of 40-hour work weeks and day-to-day grind, most people see a bonus as a reward for good performance or successful performance. Many of these financial institutions were literally the victims of their own greed and their own malice and their own poor planning. Then, after taxpayers rescued them with TARP money, they wanted to turn around and reward themselves for good conduct. It grated on the American people and this Senator as well.

TARP, which was initiated to keep these banks from failing, is one which few of us would step up and say: Well, let's try that again. That was a great idea. I, frankly, think it was probably a necessary thing to do at the moment, but it is not a model I wish to recreate, certainly when you look at the reaction of the banks after we helped them. But the Senator from Nebraska comes to the floor and basically says: Let's liquidate and end this program. On its face, that sounds like a good idea but for one thing: Now some of these banks and financial institutions are paying us back with interest. We had hoped they all would. Maybe most of them will. The taxpayers deserve that.

Money that is coming back in is not like found money. We anticipated a payback. But it is money which creates an opportunity. Now the Senator from Nebraska would have us basically eliminate that program and the money coming in could not be spent for other purposes. I think that is a mistake. We spent up to \$800 billion to rescue Wall Street. As the cliché goes, it is time for us to consider spending that money to rescue Main Street. For instance, if we took a substantial portion of the TARP money coming back from the big banks, and the interest coming back from the big banks, and redirected it to community banks expressly for the purpose of providing credit for small

business, then I think we would be engaged in an effort that most Americans agree will save businesses, save jobs, and even create the opportunity for more jobs. If we do not take the TARP money to do this, we know what is going to happen: banks, large and small, will continue to deny credit to small businesses. As a result, many of them will fail, few of them will expand, and the economy will continue to move forward in a more positive way but at a glacial pace.

I would say to the Senator from Nebraska, if he went back to Omaha as I go back to Chicago and Springfield in my State and meet with small business owners, he would find they are desperate for this credit. Why not take the money that once was directed to the large banks, now paid back to our Government, and redirect it to smaller businesses? That really is the bedrock of our economy. I hope the Senator from Nebraska will reflect on that. His anger about what the big banks did after we rescued them should not be vented on small businesses in Nebraska and Illinois that need credit assistance.

It is also possible to take some of these TARP funds and turn them into a rescue for a lot of victims of the current recession. For one, we should be spending this money to help a lot of projects get underway which will help build the economy.

I just had a meeting in my office with a group of mayors from Illinois. The mayors from across the Nation are here in Washington. The story they bring is common no matter where they are from. They have seen a downturn in revenues—sales tax revenues and property tax revenues—and an increased demand for services. That is being played out at every level of government—local, State, and Federal—so many of them do not have the resources to take care of basic problems, from the repaving of streets to the building and rebuilding of essential infrastructure. What they are asking us for is help so they can meet those basic needs and at the same time create jobs in doing it.

There was a TIGER grant application under this new administration's stimulus bill that gave local units of government a chance to put on the table critical projects they could initiate and create jobs in so doing. The competition was fierce—\$60 billion in applications for \$1.5 billion in funds. It shows you there is a pent-up demand there for these infrastructure projects.

The rate of unemployment in the construction industry in America is much higher than the average—almost twice the average in most States. If we take these TARP funds coming back to our Treasury and redirect them into infrastructure grants such as TIGER grants, we would be creating new opportunities for building infrastructure critical to our economy and creating jobs immediately. That construction worker who goes back to work making certain we have good roads and bridges

is going to take that paycheck home and the family is going to spend it. As they spend it, the shopkeepers and others where they do business are going to profit and they will respond it. That is how the economy starts to churn forward, and that is how jobs are saved and created.

We should not let our frustration over the greed and selfishness of the biggest banks in America and financial institutions that literally thumb their noses at taxpayers lead us to close down an opportunity to take these TARP funds and turn them into jobs in America, turn them into a lifeline for small businesses.

Many people look at our economy today and say it is not good enough—and they are right. I have to echo the sentiments of one of my colleagues in our delegation, Congressman PHIL HARE, who says if he hears the phrase “jobless recovery” one more time, he is going to get sick to his stomach. I agree with him. A recovery is a recovery if, in fact, jobs are restored and created. We need to focus on that as well.

Make no mistake, we have made some progress over the course of last year since President Obama took office. I just remind my colleagues and those following in floor comments that last April the Dow Jones index was at about the 6,000 to 7,000 range. Today, it is 10,000. It indicates more confidence in the future of our economy, more investment in our stock market, and I hope an end to the fear and lack of confidence which were part of the worst of our recession.

We have also seen the unemployment figures. Job losses were more than 700,000 a month when President Obama took office. Now they are coming down, and that is good. I will not be satisfied, nor will the President, until they are on the positive side of the ledger. But we have made some progress. I think the latest unemployment monthly figures were in the range of 80,000 to 100,000. That is a long way from 700,000, but it gives us a lot of ground to travel before we catch up.

I would say the administration has us moving in the right direction. We not only have to stick by the stimulus bill which the President proposed and which we supported on the Democratic side of the aisle with a handful of Republican Senators, but we also have to think about the next stimulus, the next jobs program which will create good-paying jobs and help small businesses survive. That is essential. I hope we do not let some amendment come along which literally takes away the source of funds we may need for this next jobs stimulus. Whether you are in a Republican State with Republican Senators or a Democratic State with Democratic Senators, it makes no difference; unemployed people need a fighting chance to get their jobs back.

#### TERRORIST DETENTION

There were comments on the floor by the minority leader, the Republican

leader, as well as the majority leader, Senator REID, about the so-called Christmas bomber who was caught in the act trying to detonate some type of explosive or inflammatory device on an airplane. We have had extensive hearings.

The President has gone into quite an extensive investigation in terms of any failure in our security efforts and what happened on that day. I believe the President's candor and honesty have been helpful. He has acknowledged the fact that we could have done a better job. We collected a lot of information, and pieces of it, when they were considered together, really pointed toward a problem—that this man never should have been allowed to get on this airplane. The President has acknowledged that, as well as his national security advisers.

Now a question has arisen as to what to do with this suspected—alleged terrorist from Nigeria. He is currently being held, incarcerated in a Federal prison in Milan, MI, which is 60 miles west of Detroit. That is not unusual. In fact, 350 convicted terrorists are being detained in Federal prisons across America, including in my home State. They are being safely held without any fear in the surrounding community because our professionals at the Federal Bureau of Prisons know how to do their job and do it well.

The question is whether he should be investigated and prosecuted in a military commission or in the courts of the land. Some say that if he is a suspected terrorist and not a citizen of the United States, then send him to a military commission because terrorism is, in fact, a war against America. That on its surface has some appeal. They also argue that if he goes through the courts of our land, he is going to be given certain privileges we accord to citizens when they are arrested and tried which he might not otherwise have if he goes through a military commission. There is some value to that statement as well.

Here is what we have found. Here is the track record. Since 9/11, we have had over 190 convictions of terrorists in the courts of America, the criminal court system of America, our Federal courts—190. We have had three, literally three who have been prosecuted by military commissions. So those who are trying to push more and more prosecutions into military commissions should look at the scoreboard. The scoreboard tells us we have a strong track record of prosecuting terrorists in our courts, whether it is Richard Reid, the shoe bomber, with a similar mode of operation as the man who was arrested on the Northwest Airlines plane, or a suspect arrested in Peoria, IL, Mr. Al-Marri, who was incarcerated in Marion, IL, the regular prison. They went through the regular court system, successfully prosecuted and put away. Moussaoui, the suspected 19th terrorist on 9/11, has been given a life sentence and is now in a maximum security facility in Florence, CO. We will never

hear from him again, nor should we. He went through our regular court system.

Those who want to close off our regular court system to the prosecution of terrorists ignore the obvious: that has been the most successful way to prosecute and to incarcerate and keep those who are accused of terrorism and to keep America safe. Let's not have an automatic, visceral reaction that every time terrorists are somehow arrested, they need to be tried in a military commission. Let's give this administration the option. Let them decide which forum works best to bring justice and to protect America. In some cases, it may be military commissions. We recently had Attorney General Holder testify that he sent five suspected terrorists to be tried through military commissions and five through the courts of our land. Give the Department of Justice and the Department of Defense that latitude to pick the best place to achieve this type of prosecution.

I understand that in this case, the so-called Christmas bomber, there was a fumbling in terms of which direction the case should go. There is no excuse for that. We have to learn from that mistake, and we have to make certain it does not happen again. But to say that automatically every suspected terrorist has to go to a military commission is to send them into a venue, a court venue, with rules that are currently being developed and tested and are likely to be challenged by courts all over the land. To send them into our regular court system is to bring them into a system with an established set of laws, established precedent, where we have successfully prosecuted over 190 alleged terrorists since 9/11, while in military commissions only 3—190 to 3. The score is overwhelming. I think we ought to take some consolation in the fact that our court systems have worked so well.

Let me make one other point. The administration has asked, in my State of Illinois, if our Governor and general assembly will accept the creation of a new Federal prison in Thomson, IL, which will be used for both Bureau of Prisons regular detainees and those who are incarcerated, as well as a section where fewer than 100 of the remaining Guantanamo detainees will be held under military supervision. Our State has considered it. We recently, in December, had a commission decide that this surplus prison, which is 8 years old—a state-of-the-art, modern, super-max prison—will be sold to the Federal Government. We are now negotiating between the State of Illinois and the Federal Government about the price of that facility. I hope that negotiation is resolved soon. I look forward to its completion.

The critics of opening the Thomson Federal prison in Illinois argue that it is unsafe for us to detain any of the Guantanamo prisoners in the continental United States. Those critics overlook the obvious. As I mentioned

earlier, 350 convicted terrorists are being held in Federal prisons across America today, including other prisons in Illinois. Second, this Christmas bomber, who was caught on the Northwest Airlines plane, is being held in Milan, MI, a Federal prison 60 miles west of Detroit, without incident or concern. It is an indication to me that our Federal prison system is fully capable of incarcerating suspected terrorists and those who have been convicted. Those who would spread fear that somehow bringing them to the continental United States is going to compromise our security have yet to point to one single instance where a prisoner detained in a super-max facility has ever escaped.

This Thomson prison, incidentally, is going to build a new perimeter fence which will make it the safest, most secure prison, not only in the United States but perhaps in the world.

The people in this community, with the prospect of 3,000 new jobs in this weak economy, are anxious for this prison to get up and running.

They have come out politically, both political parties, those who have been elected to office at every level, supporting this Thomson prison. I think what has happened to this alleged terrorist from the Northwest Airlines flight in Milan, MI, is proof positive that we can continue to hold these terrorists. We do not have to stand in awe or fear. We should stand without quaking and trembling and understand that we can look these terrorists in the eye and say: We can put you in this prison, and you are going nowhere, buddy. That is what has happened to this person and will happen to those who are detained in Thomson, IL.

I see my colleague from Louisiana is here. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

#### HAITIAN ADOPTIONS

Ms. LANDRIEU. I thank my colleague from Illinois for his passionate and coherent and convincing arguments about the issue of how to detain terrorists and knowing that we can do that very well in the United States, and also his explanations about the financial situation and some of the things the President is doing to correct that situation.

But I came to the floor this morning in morning business to talk about a different subject, and one that is quite troubling to Americans as we watch the unfolding horror in Haiti. As we stand ready and willing to do everything we can, not only as leaders in the Senate and Congress, our constituents are leaning forward wanting in every corner of this country to do everything they can to help.

It is very frustrating to see, again, some of the similar, almost eerily similar scenes from having lived through Katrina and Rita, Gustav, and Ike along the gulf coast. Whether those

scenes were from New Orleans, as we remember, or Plaquemines Parish or St. Bernard or Galveston or Gulfport or Biloxi, those scenes are still quite fresh in the minds of Americans.

I think people are thinking the same way I am, which is, when will we ever get this right? We know sometimes things happen that are unpredictable, but this is not one of those cases either. Just like some parts of the Katrina disaster were quite known and predictable, this too, and that is a story for another day.

But as we struggle through this situation, I want to thank the administration, not only ours but administrations around the world, for what they are trying to do, and say I know we can do better and everybody watching this knows we can do better and one day we will. We are going to do what we can as quickly as we can. I am going to stay focused, with many of my colleagues here, on one aspect of this response and recovery; that is, the aspect of children and particularly orphan children.

I have been very proud to be the leader of the coalition in this Congress of over 220 Members. We are completely united and completely nonpartisan in our advocacy for orphans in America and around the world. This is a moment where I would like to spend, although my time is short, saying this is a good time for us as a country and as Members of Congress to try to understand the magnitude of the challenge before us.

Let me begin, before I go into the situation, to personally and by name thank the Members of the Senate who have stepped up to date quickly and forcefully to join this effort. Your name, Madam President, is at the top of the list, the junior Senator from New York. We thank you for your extraordinary leadership. I also thank the Senator from Colorado, MARK UDALL; the Senator from Massachusetts, JOHN KERRY; the Senator from Michigan, CARL LEVIN; CHRIS BOND from Missouri; ARLEN SPECTER from Pennsylvania; BOB CASEY from Pennsylvania; HERB KOHL from Wisconsin; MARK WARNER from Virginia; Senator BARRASSO; Senator JOHNSON; Senator BENNETT; Senator STABENOW; Senator BILL NELSON from Florida; Senator LAUTENBERG; Senator THUNE; Senator MCCAIN; Senator MENENDEZ; and Senator HUTCHISON; and my cochair in all of this, obviously, Senator INHOFE.

We are a bipartisan group. Our numbers are growing every day, numbers of Senators who say we want to focus on the welfare of children and particularly orphans and come up with a better plan to respond to this humanitarian disaster as it relates to them. We are committed to the fundamental—almost a concept that I do not know how anyone could argue, but people do, that all of us understand that children actually belong in families. I know this is a difficult concept for some people in our country and the international community to grasp. But children do not do