

support of Venezuela, to bring large amounts of cocaine into the United States. Those same craft could be used to deliver a weapon of terror.

This administration and the world have to focus not just on Iran but on the dangerous ties between Iran and Venezuela.

Mr. President, with that, I yield the floor. I see my friend and colleague from Tennessee is here to speak.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Tennessee is recognized.

#### FINANCIAL REGULATORY REFORM

Mr. CORKER. Mr. President, before my time to speak today, there were some comments made by the junior Senator from Delaware, but before getting to that, I did want to mention that I hope very soon the administration will work closely—and I am sure they will because I know they are very understanding of what has happened in Tennessee—with those who are dealing with the obvious disaster underway in our State. We have people who have lost their lives, people who have lost their homes, and people who have lost their life's work. I appreciate so much the work our Governor has underway, and the many mayors, especially the mayor of Nashville but also mayors across our State. I appreciate the response all of them have given in coming to the aid of our citizens there. Again, I know this administration will begin to work very closely with them in that same regard, and I thank them in advance.

But I came to speak specifically today about the comments of my friend from Delaware regarding the fact that because large institutions in this country have a funding advantage over some of the smaller institutions, we ought to break them up.

I certainly have concerns about some of the situations we get ourselves into when a large institution gets into trouble. I don't think that having 100 Senators here on the floor arbitrarily deciding what size a financial institution ought to be or when it should be broken up is necessarily the right approach. What I do think is a better approach—and I think this bill attempts to do this but doesn't quite get it right—is to ensure that if an institution fails, it actually fails; the shareholders of the company know they are going to be out of their entire investment; the creditors know what is going to happen. The bill attempts to do that, and my sense is that Senator SHELBY and Senator DODD are working together—and I think may actually have come to an agreement—on a way to close some of the loopholes that exist in this bill.

What I would suggest to my friend from Delaware is just to support those efforts because I think if that occurs—and my sense is it will, based on the conversations I have had—what will happen very quickly is the credit rat-

ing agencies in this country—and they have already indicated this to be the case, not that they have been stellar, certainly in these last couple of years or the last 4 years—many of them are beginning to look at these large institutions in a different way because they believe we may pass legislation here on the floor that says that if they fail, they actually go out of business. That creates a situation where that moral hazard doesn't exist; where people, in essence, loan money or give credit or invest in these larger institutions at rates that are less than what might be the case for smaller institutions.

The best way we can sort of level the playing field is to ensure that if a big company fails, it fails. Again, I think we are on the verge of getting that solved. There will be many people on my side of the aisle—and by the way, I respect this position very much—who think the only way to do that is through bankruptcy, and they are talking about either an 11(f) section of the code or a section 14 of the Bankruptcy Code, where highly complex financial holding companies would go into bankruptcy if they fail. By the way, I think we should do everything we can to strengthen that.

At the same time, I think—certainly in the interim, anyway—we need a resolution mechanism so that we know that if a large company fails, we have a mechanism to liquidate it. It may be that you need both tools. Maybe you let the resolution provision sunset after the bankruptcy laws are completed and fixed in such a way that it works for a large, highly complex bank holding company.

But, again, what I would say to my friend, the Senator from Delaware, is—and I certainly love his passion on this issue—the best way we can get that level playing field is to ensure these large institutions fail when they fail, and that will change that funding level he is talking about. As a matter of fact, we are given regulators in this bill, if it passes in its form right now.

I sure hope we make lots of changes because I cannot support the bill as it is today. But the bill actually addresses capital levels. As institutions become larger and more risky, additional capital requirements are required, which automatically drives up the cost of funding. There is a section Senator WARNER and I worked on called contingent capital, where the regulators can actually cause these institutions to have contingent capital, where if a creditor has loaned money to an institution and this institution gets in trouble, that turns to equity, so it is a buffer. Again, I think the cost of that is going to be more expensive than most credit that would be given to an institution such as this.

So, again, I think the best way to deal with organizations that are large in this country is to deal with the many tools that exist in this bill that need to be improved, no doubt, and hopefully, over the course of the next 2

weeks, will be improved. But that is a much better solution than just arbitrarily having 100 Senators saying: Well, if you are X part of our GDP, you have to be taken down to size.

I wish to reiterate, as I did last week on the floor, that our country has by far the largest gross domestic product in the world. We dwarf everybody. Yet we have no banks in the top 5 in the world; we have 2 banks in the top 15. So I am not sure that as we work on globalization and as we hope to ship goods and deal with people around the world, that our best solution is to handicap the ability of our companies that work in that way and create great jobs in this country shipping goods across the world. I am not sure it is in our best interest to look at arbitrarily deciding what size a financial holding company should be.

Mr. President, I appreciate being able to speak to this issue. I do hope over the course of the next couple of weeks that we can make significant changes in the consumer title. I am hearing from people all across the State of Tennessee—ordinary citizens who wake up daily and who do things that are outside the financial sphere, at least they believe they are—who are very concerned about the reach of our consumer protection agency as it is outlined in this bill; the fact that it is unfettered, that there is no board in any way to control it, the fact that there is no Federal preemption, the fact that there will be 50 State attorneys general now dealing with our national banks, the fact that this consumer entity has the ability to be involved in underwriting loans. You can imagine some of the problems that have occurred through CRA recently. Think about this: It would be CRA on steroids.

So those are some issues I do think we need to address in this bill and I hope we will address in this bill. And I hope we will realize that this country has an overexpansive government that reaches out unnecessarily into their lives.

In closing, again, I applaud the efforts the Senator from Connecticut and the Senator from Alabama have underway to fix this resolution title in such a way that we all know that if a firm fails, it is going to go out of business. I think that will adequately address the concerns the junior Senator from Delaware brought up earlier about these big firms, in some cases, having funding advantages. I think once the public understands these firms can go out of business, just like any other entity, that will change. I think we are already seeing that through early indications with credit rating agencies and others that are looking at these entities.

Mr. President, I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

# RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

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

The assistant legislative clerk read as follows:

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

Pending:

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

Reid (for Boxer) amendment No. 3737 (to amendment No. 3739), to prohibit taxpayers from ever having to bail out the financial sector.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I will be brief at this point.

First, let me thank the leadership and my colleagues, Democrats and Republicans, for allowing us to get to this point. Now we are on the bill after all this time.

I didn't hear all the comments of my friend from Tennessee, but clearly we are making an effort to reach agreement where we can on some of the critical issues. Senator SHELBY and I and our staffs have worked very hard over the weekend to try to come to closure on the resolution title of the bill, title I and title II, that Senator CORKER spent so much time working on. We thought we had done a pretty good job, but there is always room for improvement to satisfy the interests people have to make sure taxpayers will never be exposed. My hope is we will be able to present that, Senator SHELBY and I, to our colleagues to be able to close that issue and move on to the other areas of the bill that people have interests in.

We have a number of amendments that I believe should be relatively non-controversial—either bipartisan amendments that Senators want to offer dealing with the Federal Trade Commission or dealing with the consumer title. There are a number of amendments on which we have already reached some agreement. My hope is we could have some understanding—obviously, I want to wait until Senator SHELBY comes over—that we could enter a time agreement, a brief one, on the Boxer amendment. We have all talked about the Boxer amendment, so maybe, hopefully, we could have that vote when we come back from our respective caucus luncheons.

I hope at some point shortly thereafter, Senator SHELBY and I will offer a proposal dealing with the resolution titles of the bill to close that. I am told Senator TESTER and Senator HUTCHISON have an amendment, which sounds pretty good to us, dealing with some issues involving assessments on small banks that we agree with.

I know Senator SNOWE and some others have amendments which we have worked on as well which we think are helpful to agree to.

Senators HUTCHISON and ROCKEFELLER on the Federal Trade Commission, we have reached agreement on that as well. There are a number of issues which I would like to at least deal with here where we have consensus.

Then, obviously, there are going to be some areas and amendments that will come up that are controversial, that will require a good debate on the floor—hopefully, not an endless one but debate on those matters. I wish to get to those soon. I know my colleagues who have those ideas wish to be heard, and I certainly wish to give them the opportunity to do so. My hope is we will reach time agreements and have up-or-down votes on them. That is the way this institution is supposed to operate. We can avoid filibusters and those who want to extend the debate, even though they are not happy with the amendment and don't like the outcome. I think we serve our interests well if, with the exception of those that deserve some sort of attention like that, the overwhelming majority of these issues ought to be debated and voted up or down and move on to the next set of issues.

In the meantime, we try to work on ones that we know are coming along to see if we can't reach consensus as we have on a number of these items.

That is sort of the game plan as I see it, but I obviously am not going to make any unanimous consent requests regarding time agreements until my colleague from Alabama is here in order to agree with that, but my hope is to offer such unanimous consent proposal that on the Boxer amendment we reach a time certain fairly quickly. Again, it is a three-line amendment that I think everyone has had a chance to hear us discuss over the last couple days. That goes to the heart of what Senator CORKER was talking about; that is, to emphatically state taxpayers not be exposed to the costs of any institution that fails and is wound down, either through resolution or more likely through bankruptcy—there is not taxpayer exposure. Since we all agree on that and the language is rather clear, my hope is we could spend a few minutes talking about it, making that point and vote and then move on to these other matters, seeking time agreements where appropriate.

That is how we will proceed. I have talked to the leader. Obviously, we do not have an endless amount of time for this debate and this subject matter, but my hope is, over the next week or two, to conclude, starting early, staying a little later in the evening than we normally do, even, if necessary, spending some time on the weekend. I know that is not normally done here, but, again, to get to the finish line on this bill is going to take some time, given the numbers of amendments people

have on which they would like to be heard, in order to meet the goals of the leadership to complete our work on this bill and move to the other items that must be debated in this Chamber, aside from the financial services reform.

We have a lot of work to do in the coming 2 weeks on this matter. My hope is, people will bring their amendments early to us, to Senator SHELBY and to myself or our committee members, let us look at them and work on them. Where we can accept or modify them, we will try to do so; where we cannot, provide the time so we can have a debate and vote on your ideas. That is where we stand.

I have a number of requests for time. I am not going to make any unanimous consent requests for these, but a number of Members have asked for some time to speak today either on amendments they are going to be proposing or on the bill itself. I have that list. I will try to accommodate those Members, when I can, this afternoon. Again, the first order of business would be on the Boxer amendment.

Let me just say about that amendment, that again, the language of the Boxer amendment is rather straightforward. I read it the other day. It is a very brief amendment and very clear. It says:

At the end of title II add the following.

At the end of the resolution title, which is an elaborate title we spent months working on so as to make sure we would get it right; that is, the presumption is bankruptcy and, in the most painful alternative, a resolution but one that you would not like to take at all. It is bankruptcy, putting these companies out of their misery and the country out of its misery without exposing the taxpayers to the cost. The managers all get fired under our bill. They are gone. Not only do they not get bonuses, they don't have a job having done what they did. The shareholders lose, so shareholders have to pay more attention to what is happening to their companies of which they are owners. Creditors also take tremendous hits in this proposal as well.

Senator BOXER has offered some very straightforward language, almost an exclamation point at the end of title II. I will read the amendment because it only takes about a minute to do so. She says:

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

If there was any doubt about the provisions—sentence No. 2.

No taxpayer funds shall be used to prevent the liquidation of any financial company under this title.

A very clear, declarative sentence.

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