

# 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 bill clerk read as follows:

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

Pending:

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Oregon is recognized.

AMENDMENT NO. 3789

Mr. MERKLEY. Mr. President, I ask for the regular order in regard to amendment No. 3789.

The PRESIDING OFFICER. The amendment is now pending.

AMENDMENT NO. 4115 TO AMENDMENT NO. 3789

(Purpose: To prohibit certain forms of proprietary trading, and for other purposes)

Mr. MERKLEY. Mr. President, I offer a second-degree amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Oregon [Mr. MERKLEY], for himself and Mr. LEVIN, proposes an amendment numbered 4115 to amendment No. 3789.

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

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor. The Senator from Oregon has the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. DODD. Madam President, I ask unanimous consent that at 2 p.m. today, the Senate consider the Snowe amendment No. 3883 and a Landrieu side-by-side, No. 4075, and that they be debated concurrently for a total of 30 minutes, with the time equally divided and controlled in the usual form; that upon the use or yielding back of time, the Senate proceed to vote in relation to the Landrieu amendment No. 4075, to be followed by a vote in relation to the Snowe amendment No. 3883; that no amendment be in order to either amendment prior to a vote; that upon disposition of these amendments, the Senate then resume the Whitehouse amendment No. 3746, as modified, and there be 2 minutes of debate equally divided and controlled with respect to the amendment; that upon the use of time, the Senate proceed to vote in relation to the amendment, with the amendment subject to an affirmative 60-vote threshold, and that if the amendment achieves the threshold, it be agreed to and the motion to reconsider be laid upon the table; that if it does not achieve that threshold, then it be withdrawn; that no amendment be in order to the Whitehouse amendment; that upon disposition of the Whitehouse amendment, Senator VITTER be recognized to call up his amendment No. 4003, which is in order to be called up per a previous order; that once the amendment is pending, it be modified with the language of the Pryor amendment No. 4087, and that as modified the amendment be agreed to and the motion to reconsider be laid upon the table; that once this agreement is entered, Senator BARRASSO be recognized to speak in morning business, with no amendments or motions in order during this period; that the cloture vote be delayed until disposition of the above-mentioned amendments; and that upon the conclusion of Senator BARRASSO's remarks, the Senate stand in recess until 2 p.m.

The PRESIDING OFFICER. Is there objection? The Senator from Michigan.

Mr. LEVIN. I object and suggest the absence of a quorum.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

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

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

Mr. REID. Madam President, I ask unanimous consent the Senator from Wyoming, Mr. BARRASSO, be recognized for up to 15 minutes; that following his remarks, the Senator from Ohio, Mr. BROWN, be recognized for up to 15 minutes; that following that, the Senate go into a recess at that time, after the two Senators finish their speeches, until 3:15 today. The two Senators are going to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Wyoming is recognized.

## HEALTH CARE REFORM

Mr. BARRASSO. Madam President, I come to the floor as someone who has practiced medicine in Casper, WY, since 1983, as an orthopedic surgeon taking care of many of the families in the great State of Wyoming. I come to you to talk about the health care bill that has been signed into law and to provide a doctor's second opinion about what is now the law of the land.

I come to you as someone who has worked very hard for many years, working with preventive medicine and early detection of problems as a medical director of the Wyoming Health Fairs, a program designed to give people information to stay healthy and keep down the cost of their care.

I come to you with a second opinion on what is now the health care law because I believe the goal of health care reform should be to lower costs, improve quality, and increase access to care.

Unfortunately, the new health care law, in my opinion, is going to be bad for patients, for providers—the nurses and doctors who take care of them—and for the payers, the people paying the bills—the patients as well as the American taxpayers.

I am concerned that the health care bill signed into law is going to increase the cost of care, provide less access to care, and is going to lessen the quality of the available care in this country.

I come to you with new information that has come to light on the health care bill and, specifically, an article that was in Politico this Monday, May 17, written by Kathleen Sebelius, the

Secretary of Health and Human Services. What she said in this article is:

We are collaborating with States to set up federally funded high-risk insurance pools to make sure that the Americans with the greatest need for health insurance will be able to get it.

Madam President, you know as well as I that there is an old phrase in politics that goes: "How does it play in Peoria?" It is referring to Peoria, IL, and means what is the average American thinking about this. Regarding this health care law, it is not playing very well in Peoria. Peoria is a place that President Clinton referred to when he was running, as did George W. Bush, Ronald Reagan, and President Obama. Those Presidents went to Peoria to talk with people. Yet, when you look at what the Peoria Journal Star has reported about this health care bill, which is now law, in the President's home State, a place that is felt to be the bellwether for political thought in the country, Peoria, IL, the verdict is not good about this health care bill which is now law. I will start with an article that appeared in the Peoria Journal Star that talks about what is happening in Illinois today. It says:

For thousands of Illinois residents who pay high health insurance premiums because of medical problems, the new federal health care legislation won't offer relief.

It will not offer relief, this says. Continuing:

The 16,000 residents who already pay into Illinois' high-risk health insurance pool will keep paying high rates, while others who enroll this summer under a new, similar program will get coverage at lower, more reasonable prices.

What happened here? This is one of the fundamental flaws. Only the people who have been uninsured for 6 months are eligible—meaning those in the current State pool cannot switch and save money. How do the people of Illinois feel about this? How is it playing in Peoria? Quite poorly.

Julie Kramer is quoted in the article. She is 53. She said she is "feeling a bit cheated," in her words, by this health care law. She has paid high premiums for nearly 7 years in the Illinois high-risk pool; she has played by the rules and has done what she needed to do. Is she being helped by the new health care law? Not at all, and she is feeling cheated.

She went on to say that:

... it feels very unfair. It goes against the spirit of what health care reform was supposed to be.

Ms. Kramer is a self-employed writer and owner of Full Moon Marketing Communications in Vernon Hills. She said: "This does seem like a low blow."

Members of the Senate voted for the bill about which this person says she feels a bit cheated, it seems unfair, and it seems like a low blow. The existing program is called the Illinois Comprehensive Health Insurance Program. Thirty-four other States have similar programs.

People in this Illinois program pay 25 to 50 percent higher—more than stand-

ard rates. So they pay their premium; they pay every month. They continue to pay. Yet they are feeling cheated, they feel it is unfair and is a low blow.

Even the Illinois Department of Insurance—their director—understands this lady's frustrations. To even the playing field, the director said the State legislature would have to act to reduce the premiums. You cannot rely on Washington. Illinois expects to receive money from the Federal Government to start the new high-risk pool. The insurance department says there might be enough money to cover about 5,000 people in the new plan. How does that compare? Far fewer—according to the article in the Peoria, IL, paper, far fewer than the number of people who may qualify. A Government Accountability Office report said about 218,000 people might be eligible for a high-risk pool in Illinois.

Well, what does the Illinois high-risk pool Web site say? They sent a letter to enrollees—the people who pay their premiums month after month and play by the rules—and it says it is unlikely Federal funds will be available to reduce premiums paid by the current enrollees—the people who have played by the rules and have continued to pay the bills. They didn't actually send out this letter. They put it on their Web site. They wanted to send it out, but they didn't have the \$5,000 for postage to send this letter to the people who have been sending thousands and thousands of dollars into this high-risk pool every year.

The director said: No, we have not mailed the letter because the cost of mailing was prohibitive, given that we have, at this point, not received any actual funding. He said it would be inappropriate to withdraw funds to send such a letter.

Well, Julie Kramer was shown the letter on the Web site, and she said: You know, I did feel a little flash of anger and disappointment when I read it.

I say to the Secretary of Health and Human Services—who wrote a letter to those in Washington via Politico, who said we are doing what we can to make sure we are helping these people—the people of Peoria do not agree and do not believe what she has to say.

That is why, across the board, a majority of the Americans who need health care, who are concerned about the cost of care, look at this health care law and believe, in terms of a law this Congress has passed and this President has signed, that it is going to actually make the cost of their own care go up and the quality of their own care go down. That is why, overwhelmingly, the American people have rejected this health care law.

That is why I come to the floor again with my second opinion, and my opinion is it is time to repeal this law and replace it—replace it with solid ideas that will help people lower the cost of their care, improve the quality of their care, and increase their access to care.

That would be patient-centered health care, health care that allows people to buy insurance across State lines, that gives people who buy their own policies the opportunity to get the same tax relief that big companies get, to provide individuals incentives to stay healthy and get the cost of their care down by lowering their risk factors for disease because half the money we spend in health care in this country goes to 5 percent of the people—those who eat too much, exercise too little, and smoke. We need to find solutions that deal with lawsuit abuse, to get down the cost of all the defensive medicine that is practiced in this country and allow small businesses to join together to provide less expensive insurance for the people who work for those businesses.

Those are the things we know will work, the things we know will be able to allow us to deliver higher quality care, that will allow us to lower the cost of care. That is why it is my opinion, as a physician who has practiced medicine since 1983, that we need to repeal this health care law and replace it with something that will work for the people of America.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, I came to speak on the Merkley-Levin amendment, which I think is so important. I will speak about that in a moment.

I am a little surprised to hear another health care debate comment. Last year, through much of the year, there was opposition—a lot of opposition—to the health care bill. Most of the opposition came about because of the kinds of things that were said on the Senate floor that simply weren't true: that this bill would mean the government would put a bureaucrat between your doctor and yourself as a patient, that it was a government takeover, that it was socialism.

In fact, the arguments they used last year against the health care bill were the same arguments they used against Medicare in 1965: socialism, government takeover, and bureaucrat between you and your doctor. Those things didn't pan out with Medicare. The same arguments were used, but they clearly weren't true in 1965, when conservatives, including the John Birch Society and others similar to that, did everything they could to defeat Medicare. They were not successful then and they weren't successful on the health care bill now.

When I hear that kind of discussion from colleagues on the other side of the aisle, when I hear the most conservative Members of this institution saying we should repeal the new health care bill, I guess the questions to ask are: Do they want to repeal the provision when my friend's 22-year-old daughter comes home from college or his son comes home from the military

and they can't find a job with insurance? Are they going to repeal the section that says they can stay on their parents' health insurance? It was a great idea that the young men and women coming home from the Army or from school can stay on their parents' health care insurance until they are 27. I guess they want to repeal that.

I guess they want to repeal the tax breaks that this health care bill gave to small businesses so they can insure their employees. I guess they want to repeal the support for those who fall into the doughnut hole for prescription drugs, those seniors continuing to pay their premiums and get that benefit from it. They want to repeal the benefit this bill is going to give them. They want to repeal the prohibition on preexisting conditions. During much of last year, I would come to the floor and read letters from constituents—Ohioans from Ravenna, Toledo, Hillsboro, to Wilmington.

These letters would be mostly from people who thought they had good health insurance until they got sick and needed it. This legislation will not let insurance companies knock people off the rolls because of a preexisting condition or knock them off the rolls because they got too sick and expensive, will not let them knock them off the rolls if they had a child born with a preexisting condition. All of those issues were resolved, and we are beginning to see all of these benefits from this health care bill. The American public knows that.

I wish my colleagues, rather than advocate for repeal of something that has moved this country forward, would work with us on issues such as the Merkley-Levin amendment. Let me for a moment discuss that amendment.

It is a good amendment. It will make this final bill stronger. It is worthy of an independent up-or-down vote. It is worthy of a majority vote. If we get 51 votes, we ought to be able to adopt an amendment in this body to add to this legislation.

Republicans have criticized this bill for weeks. They have blocked us from bringing it up for debate because they said it did not address the problem of too big to fail. But the first major amendment we considered which would have addressed the problem of too big to fail—that is, too big to fail is too big—would have meant those huge banks would have had to sell off a part of their assets.

Let me give a number. The total assets of the six largest banks in this country 15 years ago was 17 percent of gross domestic product. The total assets of those six largest banks today are 63 percent of the gross domestic product. Too big to fail is, in fact, too big.

Every Republican, with the exception of Senator ENSIGN from Nevada, Senator COBURN from Oklahoma, and Senator SHELBY from Alabama, every single Republican voted against that, again siding with the big banks, the six

big banks, against the country, against manufacturers in Dayton, OH, against the small-town bank in Dover or New Philadelphia, OH, against the regional banks in Cleveland, Cincinnati, or Columbus, against the small business guy or woman who wants to get a loan. By voting for the big banks and giving them even more advantage, it was discriminating against the regional banks, the community banks. It was hurting the manufacturer in Shelby, OH, or Mansfield, OH, that needs a loan to build their business. That was the first chance.

I cannot think of another proposal that deals with the problem of too big to fail better than the Merkley-Levin amendment. There are all kinds of parliamentary shenanigans going on around this amendment trying to block it. Let me talk about the amendment for a moment.

If they are successful in beating this amendment, it is clearly a win for the Wall Street banks. For too long these banks used their own capital or borrowed billions of dollars to invest in risky financial products. We know they did that. We know the damage it caused to our system, to our economy, to our country. After telling their clients to buy these risky products, big banks turned around and bet against their own clients to cushion their profits. With one hand, they sold a client a risky financial product—a subprime mortgage or a large debt obligation. With the other hand they placed bets on those products underperforming. That is how proprietary trading works. That is what they want to continue.

It is like me selling you a house and then taking out a fire insurance policy on it and starting the fire. Whether it was greed or arrogance run amok, these megabanks blew our economy apart—we know what happened—leaving taxpayers to piece it back together.

Proprietary trading is not just a gamble. It is a drag on sectors of our economy that traditionally have been supported by the banks. Proprietary trading displaces lending to businesses small and large. It increases Wall Street's bottom line while leaving the rest of the economy behind.

Over the past dozen years, proprietary trading—as this reckless gambling is called—has become an increasingly larger portion of the business conducted by our largest financial institutions.

At the end of 2009, the large banks reported to the FDIC that their trading revenues, as opposed to revenues from lending and other traditional banking activities, accounted for 77 percent of their net operating revenues. At the same time over the last year, FDIC-insured banks' securities holdings have increased by 23 percent. Instead of lending to businesses, they lend to themselves.

It is no coincidence that manufacturing faltered, that millions of jobs were lost, and our Nation's unemployment rate hovers at 9.9 percent and

higher in a dozen States such as Ohio. There is no room in the financial sector to absorb good-paying jobs in other sectors; and when banks stop lending, other sectors dry up. That is not sustainable.

We know in this country that 30 years ago one-third of our GDP was in manufacturing. Financial services accounted for only 10 or 11 percent of our gross domestic product. That really tells the story. As manufacturing declined as a percentage of GDP and financial services went up so much, that is clearly why we are where we are today. Financial services has accounted for 44 percent of corporate profits in recent years, again, instead of manufacturing, instead of contributing wealth to our country.

The support of the Merkley-Levin amendment makes sense. It is not a time to play games with the financial well-being of hard-working, middle-class Americans.

I urge my colleagues to support the amendment.

I yield the floor.

#### RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 3:15 p.m.

Thereupon, the Senate, at 2:06 p.m., recessed until 3:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. MERKLEY).

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

The PRESIDING OFFICER. The majority leader.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

Mr. REID. Madam President, we have been trying now for many hours to get a consent agreement to let us move forward on some of these amendments, important amendments—some not so important but amendments. I do not know if we will ever arrive at that now, so I think it would be in the best interests of the body, both Democrats and Republicans, to go ahead and have the cloture vote.

There is a commitment made by the chair of the Banking Committee—and, of course, the Agriculture Committee, but most of the concern right now is with the matters dealing with the Banking Committee jurisdiction—that both the chairman and ranking member will continue. We know what the consent agreement is. We will try to work through all that. I think that is the best way to do it. We have the word